



# Regulatory & Compliance Alert

A PUBLICATION OF NASD

## 2003 NASD Renewal Program

The 2003 NASD Broker/Dealer and Investment Adviser Registration Renewal Program began on November 4, 2002, when online Preliminary Renewal Statements were made available to all firms on Web CRD and IARD. This annual program simplifies the registration renewal process for more than 21,000 Broker/Dealer (BD) and Investment Adviser (IA) firms and approximately 700,000 registered representatives and 100,000 investment adviser representatives by allowing the payment of one amount to NASD by the published deadline. There are two significant changes to the program this year. This is the first year that:

- ▶ NASD will assess a Renewal Payment Late Fee to all NASD members that do not pay by the 2003 Renewals payment deadline of December 6, 2002.
- ▶ NASD will collect investment adviser representative (RA) Renewal Fees on behalf of participating state regulators.

Renewal Statements will include the following fees: NASD Web CRD/IARD System Processing Fees, NASD Branch Office Fees, as well as New York Stock Exchange (NYSE), American Stock Exchange (Amex), Chicago Board Options Exchange (CBOE), International Securities Exchange (ISE), Pacific Exchange (PCX), and Philadelphia Stock Exchange (PHLX) Maintenance Fees. The statement will also include, state Agent, state Broker/Dealer, and if applicable, state Investment Adviser Firm and Representative Renewal Fees.

Members should read the October edition of *Notices to Members*; and information posted to the NASD Web Site, [www.nasd.com](http://www.nasd.com), and the Investment Adviser Web Site (where applicable), [www.iard.com](http://www.iard.com); the Renewals issue of *The Bulletin*; and any other mailed information to ensure continued eligibility to do business in the states effective January 1, 2003.

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## Preliminary Renewal Statements

As of November 4, 2002, Preliminary Renewal Statements are available for viewing and printing for all firms on Web CRD and IARD. NASD must receive full payment of the November Preliminary Renewal Statement amount **no later than December 6, 2002**. If payment is NOT received by the December 6, 2002 Payment Due Date, NASD member firms will be assessed a **RENEWAL PAYMENT LATE FEE**. This Renewal Payment Late Fee will be included as part of the member firm's Final Renewal Statement which will be posted to Web CRD and IARD in January 2003 and will be calculated as follows: 10% of a member firm's cumulative Final Renewal Assessment or \$100, whichever is greater, with a cap of \$5,000. Please see *Notice to Members 02-48* for details.

## Fees

Beginning with this 2003 NASD Renewal Program, NASD Personnel Assessment Fees will **no longer** be assessed through the annual Renewals Program. NASD will mail all NASD Member Firms a separate billing during the 1st quarter of 2003. Please see *Notice to Members 02-41* for more details. The following fees will be assessed:

- A fee of \$30.00 will be assessed for each person who renews his/her registration with **any regulator** through Web CRD.
- The **RA Renewal System Processing Fee** of \$45.00 will be assessed for every Investment Adviser Representative who renews through the IARD Program.
- The **IARD Firm System Fee** of \$100.00 will be assessed for every state-registered Investment Adviser firm that renews through the IARD.
- The **NASD Branch Office Assessment Fee** of \$75.00 per branch, based on the number of active NASD branches as of December 31, 2002, will be assessed.
- Renewal Fees for NYSE, Amex, CBOE, PCX, ISE, PHLX, and state affiliations are also assessed in the Preliminary Renewal Statement on Web CRD. NYSE, Amex, CBOE, PCX, ISE, PHLX, and state Maintenance Fees collected by NASD for firms that are registered with those exchanges, as well as NASD, are based on the number of NYSE, Amex, CBOE, PCX, ISE, PHLX, and state-registered personnel employed by the member firm.

Beginning this year with the 2003 Renewals Program, the State of California will collect its firm Broker/Dealer Renewal Fees through Web CRD. However, California will not collect its Agent (AG) Renewal Fees through the NASD Renewals Program. Firms registered in California should contact the state directly to ensure compliance with Renewal requirements. In addition, some participating states may require steps beyond the payment of Renewal Fees to NASD to complete the Broker/Dealer or Investment Adviser Renewal process. Firms should contact each jurisdiction directly for further information on state renewal requirements.

For detailed information regarding Investment Adviser Renewals, you may also visit the Investment Adviser Web Site, [www.iard.com](http://www.iard.com). A matrix that includes a list of Investment Adviser Renewal Fees for states that participate in the 2003 IARD Investment Adviser Renewal Program is posted at [www.iard.com/pdf/reg\\_directory.pdf](http://www.iard.com/pdf/reg_directory.pdf).

### **Renewal Payment**

Payment of the Preliminary Renewal Statement may be made by E-Pay, in the form of a check made payable to NASD, or by bank wire transfer.

**E-Pay:** Beginning with this Renewal Program, firms will be able to submit electronic payments through a Web-based application known as Web CRD/IARD E-Pay. The E-Payment application is accessible from either the NASD ([www.nasdr.com/3400.asp](http://www.nasdr.com/3400.asp)) or IARD ([www.iard.com](http://www.iard.com)) Web Sites and allows firms to make an ACH payment from a designated bank account to their Web CRD/IARD Renewal Account. In order for funds to be posted to your firm's RENEWAL account by **DECEMBER 6, 2002**, payment must be submitted electronically, **no later than 8:30 p.m., Eastern Time, on December 4, 2002**.

**Check Instructions:** The check should be drawn on the firm's account, with the firm's CRD Number included on the front of the check, along with the word "Renewals." Submit all Renewal Payments, along with a printout of the first page of your online Preliminary Renewal Statement directly to:

### **U.S. Mail**

NASD, CRD-IARD  
P.O. Box 7777-W8705  
Philadelphia, PA 19175-8705

(Note: This P.O. Box will not accept courier or overnight deliveries)

**or**

**Express/Overnight Delivery**

NASD, CRD-IARD  
W8705  
c/o Mellon Bank, Room 3490  
701 Market Street  
Philadelphia, PA 19106  
Telephone No: (301) 869-6699

**Please note: The addresses for Renewal Payments are *different* from the addresses for funding your firm's CRD or IARD Daily Account.**

To ensure prompt processing of your Renewal Payment check:

- Include a printout of the first page of your Preliminary Renewal Statement with payment.
- Do *not* include any other forms or fee submissions.
- Write your Firm's CRD Number and the word, "Renewals" on the check memo line.
- Be sure to send your payment either in the blue, pre-addressed Renewal envelope that NASD mails to you or write the address on an envelope exactly as noted above.

**Wire Payment instructions:** Firms may wire full payment of the Preliminary Renewal Statement by requesting their bank to initiate the wire transfer to: "The Riggs National Bank in Washington, D.C." Firms will need to provide your bank the following information:

Transfer funds to:	<b>Riggs National Bank in Washington, D.C.</b>
ABA Number:	<b>054-000030</b>
Beneficiary:	<b>NASD</b>
NASD Account Number:	<b>086-761-52</b>
Reference Number:	<b>Firm CRD Number and the word "Renewals"</b>

## REGISTRATION & DISCLOSURE

To ensure prompt processing or your Renewal Payment by wire transfer:

- Remember to inform your bank the funds are to be credited to the **NASD Bank Account**.
- Provide your Firm's CRD Number and the word "Renewals" as reference only.
- Record the Confirmation Number of the wire transfer given by your bank.

Members are advised that failure to return full payment of their Preliminary Renewal Statement to NASD by the December 6, 2002, deadline could cause them to become ineligible to do business in the jurisdictions effective January 1, 2003.

A 2003 Web CRD/IARD Renewal Program Calendar has been posted to the NASD Web Site at, [http://www.nasdr.com/3400\\_renewals.asp](http://www.nasdr.com/3400_renewals.asp). Please review it for important Renewal-related deadlines and information.

Questions concerning the 2003 NASD Renewal Program may be directed to the Gateway Call Center at (301) 869-6699.

## Introducing Web CRD/IARD E-Pay

As of October 1, 2002, firms are now able to make electronic payments to fund their NASD financial accounts through an online application called Web CRD/IARD E-Pay. With the addition of Web CRD/IARD E-Pay, firms are afforded the convenience of electronic payment directly from the firm's designated bank account to the firm's Daily and/or Renewal Account with NASD. NASD does not charge any fees to firms for utilizing Web CRD/IARD E-Pay. Firms should, however, verify with their banks whether any ACH transaction fees will be imposed by its bank if the firm uses Web CRD/IARD E-Pay.

Web CRD/IARD E-Pay has been designed as a user-friendly online application. The Web CRD/IARD E-Pay payment method is made available through a link accessible on both the broker/dealer informational Web Site at [www.nasdr.com/3400.asp](http://www.nasdr.com/3400.asp) and the investment adviser informational Web Site at [www.iard.com](http://www.iard.com). Firms that would like to use this electronic payment method will be able to complete a simple online enrollment form available through the Web CRD/IARD E-Pay link.

### Features of Web CRD/IARD E-Pay:

- **Online Enrollment** – Firms will be able to establish an E-Pay User ID and set an E-Pay Password online. Confirmation of successful enrollment is provided via e-mail.
- **Timely Payment to the Firm's Daily and/or Renewal Accounts** – ACH payments that are submitted by 8:30 p.m., Eastern Time (ET), should be posted within two business days to the firm's Daily and/or Renewal Accounts with NASD.
- **Web CRD/IARD E-Pay History** – A user may view all E-Payments submitted by him/her in the past 180 days. E-Pay History information will include:
  - ▶ Confirmation Number
  - ▶ Firm CRD Number
  - ▶ E-Payment Date (The date the E-Payment was submitted.)
  - ▶ Account Type (Daily or Renewal)
  - ▶ Total Payment Amount

## REGISTRATION & DISCLOSURE

**Update E-Pay User Profile** – Firms may update, as needed, the information they provided at the time of enrollment, including updated or changed bank account information and contact information.

**Update Passwords** – Firms may:

- ▶ Reset a forgotten password – If an E-Pay User forgets his/her E-Pay Password, an online request can be made to have the E-Pay Password reset and a new E-Pay Password will be e-mailed to the user.
- ▶ Change the E-Pay Password – Users may change their E-Pay Password at any time.

With the implementation of Web CRD/IARD E-Pay, firms now have the option of funding their Web CRD and/or IARD Daily and Renewal Accounts four ways: E-Pay, check, wire transfer, or transfer of funds from the firm's Daily Account to the firm's Renewal Account. The Web CRD E-Pay and IARD E-Pay links are available on the NASD and IARD Web Sites.

### Discontinuation of RCA

**Please note that at the end of 2002, NASD will no longer publish the RCA in hard copy. It will be prepared and disseminated as a Web-based publication.**

## 2003 Web CRD/IARD Renewal Program Calendar of Dates

November 2002	<p>1 Firms can begin to submit post-dated Forms U-5, BDW, Schedule E, and ADV-W via Web CRD/IARD. All post-dated forms <b>must be dated 12/31/02</b>. <b>ALL Transition Filing functionality is shut down 11:00 p.m., Eastern Time (ET), and WILL NOT be available until 01/02/03.</b></p> <hr/> <p>2 NASD runs extract of PRELIMINARY Renewal Statements.</p> <hr/> <p>4 <b>PRELIMINARY</b> Renewal Statements are available to firms via Web CRD/IARD Site Maps for viewing and printing. (They are not mailed to firms.) To retrieve your Preliminary Renewal Statement:</p> <ul style="list-style-type: none"><li>→ <b>Logon</b> on to Web CRD/IARD.</li><li>→ From the Site Map, click on the Renewal Statement link under the Accounting section.</li></ul> <p>Firms may submit their payments by:</p> <ul style="list-style-type: none"><li>→ Electronic Payment via <u>Web CRD/IARD E-Pay</u><ul style="list-style-type: none"><li>↳ You can access Web CRD/IARD E-Pay at <a href="http://www.nasdr.com/3400.asp">www.nasdr.com/3400.asp</a></li><li>↳ There will also be a hyperlink to Web CRD/IARD E-Pay on your online Renewal Statement.</li></ul></li><li>→ <u>Wire Transfer</u><ul style="list-style-type: none"><li>↳ Wire Transfer instructions are located at <a href="http://www.nasdr.com/3400_renewal_payments.asp">www.nasdr.com/3400_renewal_payments.asp</a>,</li></ul></li><li>→ Check (Make checks payable to NASD and be sure to indicate your firm's CRD number on the check)<ul style="list-style-type: none"><li>↳ Print your Statement and mail the <b>first page with your firm's payment to:</b></li></ul></li></ul> <p><b>U.S. Mail</b> NASD, CRD-IARD P.O. Box 7777-W8705 Philadelphia, PA 19175-8705</p> <p>(Note: This P.O. Box <b>will not</b> accept courier or overnight deliveries)</p>
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## REGISTRATION & DISCLOSURE

### Express Delivery

NASD, CRD-IARD  
W8705  
c/o Mellon Bank, Room 3490  
701 Market Street  
Philadelphia, PA 19106  
Telephone No: 301-590-6500

**Please note that the Renewal Payment addresses noted above are DIFFERENT than the payment addresses for your firm's Daily Account.**

Firms may **begin to request** and view the applicable Firm Renewal Reports online. Firm Preliminary Renewal Reports include:

- Firm Renewal Report (applicable to Broker/Dealer and Investment Adviser Firms. This report lists individuals included in Renewal processing and includes Billing Codes).
- Branches Renewal Report (applicable to NASD members).
- Approved AG Reg Without NASD Approval Report (applicable to NASD members).

December 2002

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**DEADLINE** for receipt of Preliminary Renewal Statement Payments. (**NASD MEMBERS** please see important **RENEWAL LATE PAYMENT FEE** information below.)

**ATTENTION NASD MEMBERS:** Please note that if payment is NOT received by the December 6, 2002, payment due date, your firm will be assessed a **RENEWAL LATE PAYMENT FEE**. This Late Fee will be included as part of your firm's Final Renewal Statement and will be calculated as follows: **10% of a Member Firm's cumulative Final Renewal Assessment or \$100, whichever is greater, with a cap of \$5,000.**

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**2:00 p.m., ET, DEADLINE** for submission of all EFT (electronic file transfer) filings.

**6:00 p.m., ET, DEADLINE** for submission of all electronic form filings (including Forms U-5, BDW, Schedule E, ADV Amendment, and ADV-W) via Web CRD and/or IARD.

January 2003

- 23      Web CRD/IARD available for QUERY-only and the creation of "Pending" filings. **Form Filings can be created but not submitted during the shutdown.**
- 24      System Availability Note: Web CRD/IARD will be unavailable on December 25, 2002, due to the Christmas Holiday and Saturday, December 28, 2002, due to Renewal processing. Both systems will close early, 6:00 p.m., ET, on December 24, 2002, and December 31, 2002.
- 26      **Transition Filing** functionality remains **unavailable** until 01/02/03.
- 31      2003 Renewal payments sent to all regulators participating in the Web CRD/IARD Renewal Program.
- 2      Web CRD/IARD Systems' complete functionality available as of 7:00 a.m., ET.
  - All form filing functionality is available.
  - Broker/Dealers, Investment Adviser Firms, Registered Representatives, and Advisers may be approved or terminated at this time.

**FINAL Renewal Statements are available via Web CRD/IARD for viewing and printing. To retrieve your FINAL Renewal Statement:**

  - **Logon to Web CRD/IARD.**
  - From the Site Map, click on the Renewal Statement link under the Accounting section.

## REGISTRATION & DISCLOSURE

Firms may submit their payments by:

- Electronic Payment via Web CRD/IARD E-Pay
- Wire Transfer

Check (Make checks payable to NASD and be sure to indicate your firm's CRD number on the check)

Print your statement and mail the first page with your firm's payment.

### **U.S. Mail**

NASD, CRD-IARD  
P.O. Box 7777-W8705  
Philadelphia, PA 19175-8705

(Note: This P.O. Box will not accept courier or overnight deliveries)

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Telephone No: 301-590-6500

**Please Note that the Renewal Payment addresses noted above are DIFFERENT than the payment address for your firm's Daily Account.**

Firms may begin to request and view Firm Renewal Reports online. Firm Renewal Reports include:

- Firm Renewal Report (applicable to Broker/Dealer and Investment Adviser Firms. This report lists all individuals included in Renewal processing and includes Billing Codes).
- Branches Renewal Report (applicable to NASD members).

March 2003

- 6 All 2003 Renewal overpayments are systemically transferred to firms' Daily Accounts. Refund requests will be made from this account.
- 14 **DEADLINE for payment of FINAL Renewal Statements.**  
**Deadline for reporting Renewal discrepancies.**
- 15 NASD runs extract for PAST DUE Renewal Statements.
- 17 **PAST DUE Renewal Statements are available via Web CRD/IARD for viewing and printing.**
- 18 **DEADLINE for payment of PAST DUE Renewal Statements.**

April 2003

## Change in Outside Auditor

If a member firm decides to change its outside auditor, or must designate a replacement accountant to perform its annual audit, it must notify in writing the home and regional offices of the Securities and Exchange Commission (SEC or Commission) and the firm's designated examining authority (NASD) of the circumstances. The firm must send the notification to the home and regional offices of the Commission and NASD within 15 days after informing the current accountant of its decision, being informed by the current accountant of its resignation, or designating a placement accountant.

In accordance with subparagraph (f)(4) of Securities Exchange Act Rule 17a-5 (the "Rule"), "Replacement of Accountant," the notification must:

- state when the firm advised or was advised by the accountant of the termination of the engagement and/or when the firm formally engaged the replacement accountant;
- describe any problems existing during the preceding 24 months, or if less, during the period of the previous engagement, which if not resolved to the satisfaction of the former accountant would have caused him or her to discuss such issues in a report on internal control or on material inadequacies as required in Rule paragraphs (g)(1) or (g)(3) and (j) respectively; and
- describe the nature of any adverse opinion, disclaimer of opinion or qualification as to uncertainties, audit scope or accounting principles included in the former accountant's report on the financial statements for either of the past of the two years.

The problems referred to above relate to accounting principles or practices, financial statement disclosure, auditing scope or procedures, or compliance with applicable Commission rules, which occurred between principal financial officers of the firm and the accounting personnel managing the engagement. The notice shall include a discussion of the problems that were resolved and those that remained unresolved to the former accountant's satisfaction.

Lastly, the firm will request that the former accountant provide it with a letter addressed to the Commission stating whether the accountant agrees with the statements contained in the firm's notice, and if not, indicating the nature and reasons for its disagreement.

The firm must submit three copies of the notice and the accountant's letter to each of the addressees mentioned above; one copy of the notice and the accountant's letter must be manually signed.

**Questions about this topic may be directed to NASD Member Regulation at (202) 728-8221.**

This is a reminder that NASD By-Laws, Schedule A, Section 2(l) requires the imposition of fees for certain filings and reports that are not timely filed. The reports that are subject to the assessment are those reports required to be filed under Securities and Exchange Commission (SEC) Rule 17a-5, specifically monthly and quarterly FOCUS reports and annual audit reports. As provided for in Schedule A, a fee of \$100 for each day that the report is not timely filed will be assessed. The fee will be assessed for a period not to exceed 10 business days. While the fees are administrative rather than disciplinary in nature, the assessment reinforces the need for firms to promptly comply with the filing deadline. NASD will send notice of the late fee to the member after a document has been correctly filed, or after 10 business days from the filing deadline. When the notice has been sent, any accrued late fees will be deducted from the member's Central Registration Depository (CRD) Account. Please see *Notice to Members 01-54* for more information [www.nasdr.com/pdf/text/0154ntm.pdf](http://www.nasdr.com/pdf/text/0154ntm.pdf).

Schedule A, Section 2(l) also provides that, if a specific temporary extension of time to file the report has been granted, then the \$100 per assessment will not be made. However, any request for such a temporary extension of time must be submitted to NASD at least three business days prior to the due date of the report.

In addition, if the required report is not filed, a firm may subject to further action up to and including suspension of, or expulsion from, membership. Finally, the fee assessment in no way precludes NASD from pursuing disciplinary action against the firm. Such disciplinary action could include assessment of a fine pursuant to the Minor Rule Violation Plan under IM-9216 to NASD Rule 9216 or formal action, as appropriate.

**Questions about this topic may be directed to NASD Member Regulation at (202) 728-8221.**

## Municipal Fund Securities – Section 529 College Savings Plans – Qualifications – New Limited Principal Examination

Section 529 College Savings Plans are higher education savings plan trusts established under Section 529(b) of the Internal Revenue Code as “qualified tuition programs.” The plans include interests in pooled investment funds under trusts established by states or local governmental entities, as well as higher education savings plan trusts established by states. Although these plans have investment features similar to mutual funds or variable annuities, they are municipal securities. Accordingly, the purchase and sale of state-sponsored Section 529 Plans are governed by the rules of the Municipal Securities Rulemaking Board (MSRB).

The MSRB has amended its Rule G-3. MSRB Rule G -3 governs the qualification requirements of principals supervising municipal securities business. Under MSRB Rule G-3 previously in effect until December 31, 2002, if a firm's municipal securities activities are limited **exclusively** to municipal fund securities, the firm may fulfill its obligation to have a municipal securities principal by designating either an investment company/variable contracts limited principal (Series 26) or a general securities principal (Series 24) to act as a municipal fund securities limited principal. At the end of this transition period, the municipal securities principal would have to be qualified either as a Municipal Fund Securities Limited Principal (Series 51), or a municipal securities principal (Series 53).

The amendment to MSRB Rule G-3 extends until March 31, 2003, the transition period during which Series 24 and Series 26 principals may continue to supervise municipal fund securities activities without further qualification. Under the amendment, all municipal fund securities limited principals will be required to have taken and passed the Series 51 examination by April 1, 2003 (a Series 53 municipal principal examination also satisfies this requirement). In addition, the amendment announced that the administration of the new Series 51 Municipal Fund Securities Limited Principal Examination would begin on or about January 1, 2003.

If you have any questions, please contact Malcolm Northam, NASD Member Regulation, at (202) 728-8085.

## Security Futures Firm Element Continuing Education Requirement

The Commodity Futures Modernization Act of 2000 (CFMA) lifted the ban on the trading of security futures, *i.e.*, single stock and narrow-based stock index futures (“security futures”). Because they are subject to regulation both as securities and as futures contracts, security futures must be traded on trading facilities and through intermediaries that are registered with both the SEC and the Commodity Futures Trading Commission.

In lieu of additional testing requirements for certain existing registrants, NASD has established a Firm Element continuing education requirement. Persons who are currently registered as a General Securities Representative (Series 7), Registered Options Representative (Series 42), General Securities Sales Supervisor (Series 9/10), and Registered Options Principal (Series 4) who want to engage in a security futures business must complete a Firm Element continuing education requirement addressing security futures before engaging in any security futures business. Persons registered in other categories will not be permitted to engage in or supervise security futures business.

NASD and the National Futures Association (NFA), in partnership with the Institute for Financial Markets (IFM), have developed a Web-based continuing education program focusing on essential information that persons offering and selling security futures, and those who supervise such persons, should know in order to comply with the applicable federal and self-regulatory organization (SRO) requirements. This training material is divided into five modules; a brief description of each module follows this introduction. The chart below indicates which modules of the training program would be required to be completed in order for a registered representative or registered principal to engage in security futures activities.

### Current Registration Category and Continuing Education Requirements

	Series 7 or Series 42 ONLY	Series 7 or Series 42 AND Series 3 or Series 33	Series 9/10 or Series 4
<b>Module 1</b> Stocks and Stock Options	firm will determine if applicable	firm will determine if applicable	firm will determine if applicable
<b>Module 2</b> Futures Contracts	<input checked="" type="checkbox"/>	firm will determine if applicable	<input checked="" type="checkbox"/>
<b>Module 3</b> Security Futures	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Module 4</b> Regulatory Requirements for Security Future	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Module 5</b> Supervision of the Offer and Sale of Security Futures			<input checked="" type="checkbox"/>

Use of the NASD/NFA Web-based continuing education program is not compulsory. Firms may develop their own Firm Element training programs following the approved content outline. Firms also may engage other providers to deliver the continuing education, again, so long as the training provided covers all of the subjects in the approved content outline.

## QUALIFICATIONS/TESTING/ CONTINUING EDUCATION

NASD will capture electronically information concerning persons who complete this Web-based training program. Before beginning the training program, candidates will be asked to provide their Firm CRD and Individual CRD numbers. These numbers must be entered correctly in order for candidates to receive credit for completing this training session. Upon completion of this program NASD will be so notified and this information will become part of the candidate's individual CRD record. Please note, however, that the electronic link between the training program and Web CRD will not be fully operational until early 2003. The CRD records for candidates who complete their training requirement prior to this implementation will be updated to reflect this information shortly after this date. Prior to this date, NASD will provide firms, upon request, information concerning which of their associated persons have completed the NASD/NFA Web-based continuing education program. Requests should be made by e-mail to [crdreports@nasd.com](mailto:crdreports@nasd.com).

To access this online training program, and view other related information, visit the NASD Security Futures Web Page at [www.nasd.com/futures.asp](http://www.nasd.com/futures.asp).

**Questions about this article may be directed to Carole Hartzog, NASD Member Regulation, (240) 386-4678.**

## Testing Update

### **Excellence in Service Award for Testing Centers**

NASD established an Excellence In Service Award Program for those centers that consistently achieve excellence in the areas of customer service and performance.

The awards are made in April, June, October, and January for the previous calendar quarter.

The Excellence In Service Award winners for first quarter of 2002 are:

NOTE: A number beside the city name represents the number of consecutive quarter awards.

Anaheim Hills CA	Palm Desert CA	Englewood CO
Pueblo CO	Hamden CT	Norwalk CT
Davie FL	2 Orlando FL	Sarasota FL
Indianapolis IN	2 Salisbury MD	2 Lexington MA
Waltham MA	5 Livonia MI	2 Utica MI
Rochester MN	2 Jackson MS	Columbus NE
6 Melville NY	2 Bismarck ND	Fargo ND
Cincinnati OH	6 Cuyahoga Falls OH	Niles OH
7 Strongsville OH	9 Oklahoma City OK	Erie PA
4 Pittsburgh PA	10 Pittsburgh (N. Hills) PA	3 Charleston SC
Chattanooga TN	14 Memphis TN	Arlington TX
4 Puyallup WA	14 Fox Point WI	

### **Prometric Appointment Confirmation Web Site**

Candidates and firms can now confirm an existing appointment by accessing the Prometric Appointment Confirmation Web Site.

[www.nasdr.com/2630\\_confirm.asp](http://www.nasdr.com/2630_confirm.asp)

The candidate or firm will need to input the Confirmation/Tracking Number of the previously scheduled appointment, and the first four letters of the candidate's last name.

## QUALIFICATIONS/TESTING/ CONTINUING EDUCATION

### **Coming Soon: Prometric Web-Based Appointment Scheduling**

Candidates and firms will soon be able to schedule an appointment by accessing Prometric's Appointment Scheduling Web Site. Prometric expects to provide this added level of service to NASD candidates and firms by Fall 2002. NASD will announce availability of this service on its Web Site.

### **Test Center Locations – Domestic and International**

A current list of all test center locations, both domestic and international, is published on the NASD Web Site. Access our Web Page at [www.nasdr.com/2630.asp](http://www.nasdr.com/2630.asp) to get up-to-date location information.

**Questions about this article may be directed to Linda Christensen, NASD Member Regulation, at (610) 627-0377.**

### Discontinuation of RCA

**Note that at the end of 2002, NASD will no longer publish the RCA. It will be replaced by a Web-based publication.**

CURRENT AS OF  
SEPTEMBER 2002

## Certification Testing & Continuing Education Delivery Location List

### **Alabama**

Birmingham	205-871-7444
Decatur	205-350-8324
Dothan	334-677-6334
Mobile	334-344-6284
Montgomery	334-262-0043

### **Alaska**

Anchorage	907-276-6007
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### **Arizona**

Goodyear	623-932-7800
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### **Arkansas**

Fort Smith	501-484-0702
Little Rock	501-663-8280

### **California**

Anaheim	714-637-7894
Atascadero	805-462-8308
Brea	714-255-1141
Camarillo	805-389-6595
Culver City	310-337-6696
Diamond Bar	909-861-1146
Gardena	310-329-1844
Glendale	818-545-7383
Irvine	949-552-0563
La Mesa	619-668-2121
Piedmont	510-428-4123
Rancho Cucamonga	909-944-9763
Redlands	909-792-2145
Riverside	909-353-8600
Sacramento	
(Fair Oaks)	916-961-7323
San Diego	858-526-0858
San Francisco	
-California St	415-362-1311
San Francisco	
-Oyster Point	650-244-9558
San Jose	408-257-7699
Santa Rosa	707-528-6000

### **Canada**

Calgary AB	403-777-1365
Etobicoke ON	416-236-2629
	Ext. 221
Halifax NS	902-422-7323
Montreal QU	514-876-8818
Richmond BC	604-231-1966
Saskatoon SK	306-978-7323
Whitby ON	905-404-1818
Winnipeg MB	204-988-5050

### **Colorado**

Boulder	303-449-1700
Colorado Springs	719-593-1272
Denver	303-692-8745
Littleton	303-972-7276

### **Connecticut**

Glastonbury	860-633-7236
Hamden	203-287-9677
Norwalk	203-847-0031

### **Delaware**

Dover	302-741-0412
Wilmington	302-998-3817

### **District of Columbia**

Washington	202-955-5887
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### **Florida**

Davie	954-423-0782
Ft. Myers	941-275-1130
Gainesville	352-371-6891
Hollywood	954-967-0443
Jacksonville	904-739-3000
Maitland/Orlando	407-875-8118
Sarasota	941-923-9399
Tallahassee	850-386-8707
Tampa	813-289-1246
Temple Terrace (Tampa)	813-989-9988
Winter Park	407-671-2332

<b>Georgia</b>	
Atlanta (Tucker)	770-493-9813
Augusta	706-868-1888
Jonesboro	770-478-5356
Macon	912-474-5909
Marietta	770-980-1117
Savannah	912-354-2660
Valdosta	912-245-1069
<b>Idaho</b>	
Boise	208-322-3555
<b>Illinois</b>	
Carbondale	618-529-4664
Carpentersville	847-836-2031
Chicago-S. Wabash	312-663-5632
Homewood	708-798-0238
Northbrook	847-559-2461
Peoria	309-683-4653
Springfield	217-546-0381
Westchester	708-947-2800
<b>Indiana</b>	
Evansville	812-479-6855
Fort Wayne	260-481-4153
Indianapolis-E. 86th St.	317-257-7546
Indianapolis -Girl's School Rd	317-486-4541
Lafayette	765-447-0626
Merrillville	219-736-1113
Mishawaka	219-254-1055
Terre Haute	812-232-6348
<b>Iowa</b>	
Bettendorf	319-359-1001
Des Moines	515-223-6650
<b>Kansas</b>	
Topeka	785-272-7500
Wichita	316-651-5350
<b>Kentucky</b>	
Lexington	859-268-3338
Louisville	502-423-0340
<b>Louisiana</b>	
Baton Rouge	225-293-8489
Bossier City	318-742-7349
New Orleans	504-245-2600
<b>Maine</b>	
Orono	207-581-1708
Portland	207-775-5812
<b>Maryland</b>	
Baltimore	410-843-6401
Bethesda	301-718-9893
Columbia	410-740-8137
Lanham	301-552-3400
Pikesville	410-486-9045
Salisbury	410-341-4100
<b>Massachusetts</b>	
Boston	617-345-8980
Brookline	617-264-4152
E. Longmeadow	413-525-4901
Lexington	781-861-0723
Waltham	781-890-0466
Worcester	508-853-7250
<b>Michigan</b>	
Ann Arbor	734-477-6970
Grand Rapids	616-957-0368
Lansing	517-372-7413
Livonia	734-462-2750
Portage	616-321-8351
Troy	248-643-7323
Utica	810-739-0270

<b>Minnesota</b>		<b>New Mexico</b>	
Duluth	218-723-1494	Albuquerque	505-296-0609
Edina	952-820-5010		
Rochester	507-292-9270		
St. Cloud	320-529-4830		
Woodbury	651-702-6791		
<b>Mississippi</b>		<b>New York</b>	
Jackson	601-366-6400	Albany	518-438-6762
<b>Missouri</b>		Amherst/Buffalo	716-565-0570
Ballwin	314-394-7742	East Syracuse	315-433-9038
Jefferson City	573-761-7317	Garden City	516-746-7367
Lee's Summit	816-525-5445	Ithaca	607-277-4821
Springfield	417-882-0740	Manhasset	516-869-1238
St. Joseph	816-671-9900	Melville	516-845-9063
St. Louis	314-993-9092	NYC Manhattan Area	212-760-1137
<b>Montana</b>		NYC Midtown Area	800-578-6273
Billings	406-656-4646	NYC Penn Plaza-15th fl	800-578-6273
Helena	406-443-9205	NYC Penn Plaza-17th fl	800-578-6273
<b>Nebraska</b>		NYC Wall Street Area	
Columbus	402-564-2862	(Liberty Plaza)	646-625-6050
Lincoln	402-465-8800	NYC Wall Street Area	
Omaha	402-334-9449	(Rector St.)	212-566-7055
<b>Nevada</b>		Rego Park	718-997-6356
Las Vegas	702-795-7323	Rochester	716-385-4810
Reno	702-829-2700	Staten Island	718-980-3079
<b>New Hampshire</b>		Vestal	607-798-1715
Portsmouth	603-433-6800	Wappingers Falls	845-298-8378
<b>New Jersey</b>		Watertown	315-788-2588
Deptford	856-384-4744	White Plains	914-289-0437
East Brunswick	732-390-4040		
Fairlawn	201-475-1670		
Hamilton Township	609-631-9794		
Toms River	732-349-4609		
Union	908-964-2862		
<b>North Carolina</b>			
Asheville	828-253-4224		
Charlotte	704-364-7758		
Greensboro	336-288-1311		
Greenville	252-756-0342		
Raleigh	919-846-1975		
Wilmington	910-392-0891		
<b>North Dakota</b>			
Bismarck	701-224-1171		
Fargo	701-293-1234		

<b>Ohio</b>	
Cincinnati	513-671-7030
Columbus	614-451-4131
Cuyahoga Falls-Akron	330-922-5587
Dayton	937-435-8417
Hilliard	614-529-4232
Lima	419-331-7323
Mentor	440-255-0055
Niles	330-652-1886
Reynoldsburg	614-864-4090
Strongsville	440-238-0530
<b>Oklahoma</b>	
Oklahoma City	405-843-8378
Tulsa	918-249-0820
<b>Oregon</b>	
Eugene	541-485-4589
Milwaukie	503-659-9575
Portland	503-254-2009
<b>Pennsylvania</b>	
Allentown	610-791-5320
Clark Summit	717-586-4362
Erie	814-864-6100
Harrisburg	717-652-0646
Lancaster	717-391-6519
North Wales	215-412-7822
Philadelphia	215-238-8380
Pittsburgh-North Hills	412-367-4620
Pittsburgh- -Braddock Ave.	412-247-4463
Plymouth Meeting	610-941-6284
York	717-755-7471
<b>Puerto Rico</b>	
Guaynabo	787-706-7640
Hato Rey	787-753-6394
Warwick	401-738-9172
<b>South Carolina</b>	
Charleston	843-766-5599
Columbia	803-354-9221
Greenville	864-676-1506
Irmo	803-749-0356
<b>South Dakota</b>	
Sioux Falls	605-362-4875
<b>Tennessee</b>	
Chattanooga	423-894-6249
Clarksville	931-647-2003
Franklin	615-790-5018
Knoxville	423-690-0671
Madison-Nashville	615-860-0376
Memphis	901-266-4606
<b>Texas</b>	
Abilene	915-698-7858
Amarillo	806-359-1037
Arlington	817-572-6690
Austin	512-441-1978
Beaumont	409-899-9798
Corpus Christi	361-993-3793
Dallas	972-385-1181
El Paso	915-587-7323
Mesquite	972-686-3310
Midland	915-520-9418
San Antonio	210-494-7263
Sugar Land	281-491-9200
Tyler	903-510-2842
Waco	254-772-2467
Webster	281-557-0358
<b>Utah</b>	
Orem	801-226-5544
Salt Lake City	800-578-6273
<b>Vermont</b>	
Williston	802-872-0845

### **Virgin Islands**

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St. Croix                    340-773-5751

### **Virginia**

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Arlington/DC Area	703-807-5813
Glen Allen	804-346-8777
Lynchburg	804-832-0778
Newport News	757-873-0208
Roanoke	540-344-3688

### **Washington**

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Lynnwood	425-774-3922
Puyallup	253-848-0771
Spokane	509-467-8715

### **West Virginia**

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Morgantown	304-293-0699
South Charleston	304-345-1986

### **Wisconsin**

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Fox Point	414-540-2223
Madison	608-231-6270
New Berlin	414-796-0836
Racine	414-554-9009

### **Wyoming**

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Casper	307-472-4888
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JULY, AUGUST, AND SEPTEMBER

## Disciplinary Actions

In July, August, and September 2002, NASD announced the following disciplinary actions against these firms and individuals. Publication of these sanctions alerts members and their associated persons to actionable behavior and the penalties that may result. This information is current as of September 2002.

**District 1** Northern California (the counties of Monterey, San Benito, Fresno, and Inyo, and the remainder of the state north or west of such counties), northern Nevada (the counties of Esmeralda and Nye, and the remainder of the state north or west of such counties), and Hawaii

### July Actions

**Amador Sierra (CRD #4249904, Registered Representative, Redding, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for six months. Payment of the fine is required before Sierra reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sierra consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U-4. The findings also stated that Sierra failed to respond timely to NASD requests for information.

Sierra's suspension began June 17, 2002, and will conclude at the close of business December 16, 2002. (**NASD Case #C01020009**)

**Dennis Felton Whitfield (CRD #1662916, Registered Representative, Modesto, California)** submitted an Offer of Settlement in which he was fined \$12,875 and suspended from association with any NASD member in any capacity for 60 days. Payment of the fine is required before Whitfield reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Whitfield consented to the described sanctions and to the entry of findings that he participated in private securities transactions away from his member firm and failed to provide his firm with prior written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions.

Whitfield's suspension began June 17, 2002, and will conclude at the close of business August 15, 2002. (**NASD Case #C01010013**)

### **August Actions**

None.

### **September Actions**

**Terra Nova Trading, L.L.C. (CRD #37761, Chicago, Illinois) and Gerard Dean Putnam, Jr. (CRD #1033935, Registered Principal, Kenilworth, Illinois)** submitted an Offer of Settlement in which the firm was censured and fined \$25,000 and Putnam was censured and fined \$10,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in connection with its advertisement on the firm's Web site, the firm made exaggerated, unwarranted, and false statements and claims to members of the public and omitted to state material facts. According to the findings, the advertisement omitted any disclosure of the risks inherent in day trading, including the risk of loss of funds, risks that trades would not be executed, risks associated with volatile stocks, risks that customers would pay high commissions due to the large volume of trades, the risk that customers might not have sufficient market knowledge or understanding of how the member firm's systems worked, and risks associated with margin trading or short selling while making misrepresentations regarding day trading. The findings also stated that Putnam failed to supervise the firm's branch office reasonably to detect and prevent the above violations. (**NASD Case #C01000037**)

District 2      Southern California (that part of the state south or east of the counties of Monterey, San Benito, Fresno, and Inyo), southern Nevada (that part of the state south or east of the counties of Esmeralda and Nye), and the former U.S. Trust Territories

### **July Actions**

**George Fleischer Balmer (CRD #1046182, Registered Principal, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member as a financial and operations principal for two years. Without admitting or denying the allegations, Balmer consented to the described sanctions and to the entry of findings that, acting on behalf of a member firm, he failed to compute accurately the amount required to be deposited into the firm's Special Reserve Bank Accounts for the Exclusive Benefit of Customers

and, as a result, the firm had a deficiency in its accounts. NASD also found that Balmer, acting on behalf of a member firm, made numerous withdrawals from the firm's Reserve Bank Accounts, but failed to compute its reserve requirements prior to making such withdrawals.

Balmer's suspension began July 1, 2002, and will conclude at the close of business June 30, 2004. (**NASD Case #C02020024**)

**Ronald A. Borunda (CRD #1819437, Registered Representative, Carlsbad, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, ordered to pay \$27,517.96 in disgorgement, and suspended from association with any NASD member in any capacity for six months. Payment of the fine and satisfactory proof of payment of the disgorgement is required before Borunda reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Borunda consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide his member firm with detailed written notice of the transactions and his role therein, and failed to receive permission from his member firm to engage in such transactions.

Borunda's suspension began July 15, 2002, and will conclude at the close of business January 14, 2003. (**NASD Case #C02020025**)

**Michael Dennis Moody (CRD #1008506, Registered Principal, Las Vegas, Nevada)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in a principal capacity and suspended from association with any NASD member in any capacity for two years. In light of the financial status of Moody, no monetary sanctions have been imposed. Without admitting or denying the allegations Moody consented to the described sanctions and to the entry of findings that he did not adequately supervise a registered representative to achieve compliance with certain NASD rules.

Moody's suspension began July 1, 2002, and will conclude at the close of business June 30, 2004. (**NASD Case #C02020023**)

**Rex Allen Rodda (CRD #2611179, Registered Principal, Salt Lake City, Utah)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in a general securities principal capacity for 10 business days. In light of the financial status of Rodda, no monetary sanction has been imposed. Without admitting or denying the allegations, Rodda consented to the described sanction and to the entry of findings that Rodda, acting on behalf of his member firm, participated in a contingency offering of common stock and in contravention of Section 15c of the Exchange Act and Rule 15c2-4 thereunder; investor funds raised in the offering were not transmitted to a proper escrow account as required by the Rule because the escrow agreement did not set forth the contingency deadline or the extended contingency deadline. The findings also stated that Rodda, acting on behalf of his member firm, did not return investor funds to the persons entitled thereto when his member firm failed to raise the minimum-offering amount by the contingency deadline or the extended contingency deadline.

Rodda's suspension began July 15, 2002, and will conclude at the close of business July 24, 2002.  
**(NASD Case #C02020027)**

**VMR Capital Markets US (CRD #38755, Los Angeles, California) and Todd Michael Ficeto (CRD #1927084, Registered Principal, Malibu, California)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$12,500, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Ficeto, failed to report customer complaints to NASD. The findings also stated that the firm permitted Ficeto to execute equity securities transactions without being properly registered with NASD. **(NASD Case #C02020026)**

#### **August Actions**

**Seymour Isaac Abramowitz a/k/a Seymour Abrams (CRD #4412506, Associated Person, Tarzana, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations,

Abramowitz consented to the described sanction and to the entry of findings that he willfully misrepresented material facts on a Form U-4.  
**(NASD Case #C02020033)**

**Robert Joseph Borson (CRD #2828890, Registered Representative, Fullerton, California)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Borson consented to the described sanction and to the entry of findings that he received a check for \$2,000 from a public customer for investment purposes payable to Borson's member firm. The findings stated that Borson failed to apply the customer funds as instructed and, without the customer's authorization or consent, altered the payee line of the customer check to read "Robert Borson" and inserted the customer's initials above to make it appear as though the customer had authorized the alteration. In addition, the findings stated that Borson, without the customer's authorization or consent, added the notation "Given to Rob Borson" next to the customer's notation on the memo portion of the check, to make it appear as though Borson was the authorized payee on the customer check. The findings further stated that after altering the customer check, Borson endorsed and deposited it into his personal checking account and held the funds for a period of time, without the customer's authorization or consent. **(NASD Case #C02020022)**

**Donald Christopher Bowers (CRD #4291781, Associated Person, Long Beach, California)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Bowers failed to disclose material information on his Form U-4 and failed to respond to NASD requests for information. **(NASD Case #C02020001)**

**Ernest Yoshitsugo Fukumoto (CRD #215511, Registered Representative, Pasadena, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fukumoto consented to the described sanction and to the entry of findings that he engaged in private securities transactions, for compensation, without prior written notice to, and approval from, his member firm. **(NASD Case #C02020029)**

**Gregory Scott Long (CRD #2495123, Registered Representative, San Diego, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Long consented to the described sanction and to the entry of findings that he made recommendations to a public customer without having reasonable grounds for believing that such recommendations were suitable for the customer in light of the size and nature of the transactions, and the facts disclosed concerning the customer's other securities holdings, financial situation, investment objectives, circumstances, and needs.

Long's suspension began August 5, 2002, and will conclude at the close of business August 9, 2002. (**NASD Case #C02020034**)

**Daniel Richard Schmidt (CRD #2652062, Registered Representative, Santa Barbara, California)** was named as a respondent in an NASD complaint alleging that he signed public customers' names to Contribution Change Forms (CCF) without their authorization, knowledge, or consent, and submitted them to his member firm requesting an increase in the customer's monthly payroll deductions for which he received \$520 in commission advances. The proposed payroll deduction increases were not effectuated because Schmidt failed to submit salary reduction agreements (SRAs) along with the forged CCFs. (**NASD Case #C02020030**)

**James Eric Smartt (CRD #4195655, Associated Person, Inglewood, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Smartt consented to the described sanction and to the entry of findings that he received and converted a \$2,100 check payable to his member firm's proprietary account. The findings also stated that Smartt received and converted a \$3,000 check payable to a customer's investment account. (**NASD Case #C02020035**)

**WM Financial Services, Inc. (CRD #599, Irvine, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to disclose customer complaints and settlements on the Forms U-4 and/or Forms U-5 of registered representatives as required.

The findings also stated that the firm failed to establish, maintain, and enforce written procedures to ensure that the firm made required disclosures on Forms U-4 and U-5 concerning customer complaints and settlements. (**NASD Case #C02020036**)

**Mimy Wong (CRD #2284425, Registered Principal, La Canada, California)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$9,125 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Wong consented to the described sanctions and to the entry of findings that she participated in private securities transactions without providing prior written notice to her member firm.

Wong's suspension began August 5, 2002, and will conclude at the close of business August 16, 2002. (**NASD Case #C02020031**)

### **September Actions**

**Gerald Mason Crossman (CRD #2769096, Registered Representative, Bakersfield, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 120 days. Without admitting or denying the allegations, Mason consented to the described sanctions and to the entry of findings that he signed the name of a public customer to a letter of authorization relating to the transfer of an account, without the customer's knowledge or consent, and submitted it to his member firm in order to expedite the account transfer.

Crossman's suspension began August 19, 2002, and will conclude at the close of business December 16, 2002. (**NASD Case #C02020037**)

**Theodora Kenneybrew (CRD #2660317, Registered Representative, Chino, California)** was named as a respondent in an NASD complaint alleging that she received \$75,474.73 in checks for investment purposes, failed and neglected to invest the funds as instructed, and, instead, without the knowledge or consent of the customers, endorsed and deposited the checks into a bank account over which she had control and used the funds for her own personal benefit or for some purpose other than the benefit of the customers. The complaint also alleges that Kenneybrew, without her member firm's knowledge or consent, authored and signed,

under the name of a fictitious person (a purported firm supervisor), a letter on firm letterhead through which she misrepresented to a public customer that a back office error had resulted in her deposit being credited to another customer's account and that the error was being corrected. In addition, the complaint alleges that Kennybrew misrepresented that the customer's next monthly statement would accurately reflect the deposit with interest. (**NASD Case #C02020041**)

**Robert Louis Redding (CRD #1114706, Registered Representative, Reno, Nevada)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$116,687 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Redding reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Redding consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm.

Redding's suspension began August 19, 2002, and will conclude at the close of business February 18, 2003. (**NASD Case #C02020038**)

District 3      Alaska, Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming

District 3A      Denver

#### **July Actions**

**George Ronald Dye (CRD #74390, Registered Representative, Warren, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$31,640, including \$16,640 disgorgement of compensation, and suspended from association with any NASD member in any capacity for one year. Payment of the fine is required before Dye reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dye consented to the described sanctions and to the entry of findings that he engaged in business activities outside the scope of his relationship with his member firm without prompt written notice to the firm. The findings also stated that Dye participated in private securities transactions away from his member

firm and failed to provide his firm with prior written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions.

Dye's suspension began June 17, 2002, and will conclude at the close of business June 16, 2003. (**NASD Case #C3A020024**)

**Lisa Jean Jayne (CRD #4293153, Registered Representative, Mesa, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Jayne consented to the described sanction and to the entry of findings that, while associated with a member firm and the firm's bank affiliate, she accessed the computer system of the bank; created bank accounts in the name of a relative without her authorization with \$1,000 credit lines to cover overdrafts; withdrew a total of \$3,760 from the fictitious accounts; and utilized the funds for her own use and benefit. The findings also stated that when Jayne's member firm and affiliate bank became aware of her inappropriate activities, she promptly repaid the \$3,760 to the bank. (**NASD Case #C3A020022**)

**Joseph Augustus Polhill, Jr. (CRD #1131458, Registered Principal, Lincolnton, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Polhill consented to the described sanction and to the entry of findings that he participated in private securities transactions away from his member firm and failed to provide his firm with prior written notice of the transactions and his role therein. (**NASD Case #C3A020025**)

**Michelle Louise Webb (CRD #2565381, Registered Representative, Prescott, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$34,890 and suspended from association with any NASD member in any capacity for two years. Payment of the fine is required before Webb reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Webb consented to the described sanctions and to the entry of findings that she participated in private securities transactions away from her member firm and failed to provide her firm with prior written notice of the

transactions and her role therein, and failed to receive permission from the firm to engage in the transactions.

Webb's suspension began June 17, 2002, and will conclude at the close of business June 16, 2004. (**NASD Case #C3A020023**)

#### **August Actions**

**Michael Scott Dreher (CRD #2701679, Registered Representative, Denver, Colorado)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dreher consented to the described sanction and to the entry of findings that he forged the name of a manager of his member firm on a letter sent to a prospective customer. (**NASD Case #C3A020027**)

**John Oliver Edwards (CRD #1627812, Registered Representative, Cincinnati, Ohio)** was named as a respondent in an NASD complaint alleging that he participated in private securities transactions for compensation without prior written notice to, or approval from, his firm. The complaint also alleges that Edwards, acting in his capacity as a trustee, caused a member firm to liquidate portions of the trusts' mutual fund investments and deliver the proceeds totaling approximately \$1,149,500 to him. The complaint further alleges that Edwards deposited these funds into a bank account that he controlled, and made improper use of approximately \$1,043,170 of customer funds for his personal benefit. In addition, the complaint alleges that Edwards failed to notify his member firm that he had a financial benefit in an outside securities account maintained in the name of a trust at a member firm, and failed to notify the member firm carrying the account of his association with his member firm. Furthermore, the complaint alleges that Edwards completed and provided to his member firm a firm document in which he falsely represented that he did not have any securities accounts at a broker/dealer other than his member firm when he knew, or should have known, that his financial interest and authority to direct the execution of transactions in the outside account was required to be disclosed to his member firm. The complaint also alleges that Edwards failed to respond, or respond completely, to NASD requests for information. (**NASD Case #C3A020029**)

**Daniel Steven Kippert (CRD #2327018, Registered Representative, Ogden, Utah)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Kippert instructed a member firm sales assistant to transfer \$1,700 from a public customer's account maintained at his member firm to his personal bank account without the prior knowledge, authorization, or consent of the public customer. (**NASD Case #C3A020011**)

**Clarence Joe Susaeta (CRD #837418, Registered Principal, Park City, Utah)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity, with a right to reapply to become associated with an NASD member after three years from the date the AWC becomes final. Without admitting or denying the allegations, Susaeta consented to the described sanction and to the entry of findings that he received \$46,221 from a public customer, deposited the funds into a bank account he controlled, and paid the premiums on insurance policies owned by the customer in the total amount of \$54,134. The findings also stated that Susaeta's failure to segregate such funds from his own funds constituted an improper use of public customer funds. (**NASD Case #C3A020028**)

#### **September Actions**

**James David Clifford (CRD #1335296, Registered Principal, Sayville, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$17,500, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam in any capacity for which registration is sought. In light of the financial status of Clifford, a fine of \$17,500 has been imposed. The fine must be paid before Clifford reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Clifford consented to the described sanctions and to the entry of findings that he failed to amend, or cause to amend, the Forms U-4 for registered representatives after receiving information regarding customer complaints filed against the registered representatives of his member firm. In addition, Clifford failed to report to NASD customer complaints that were received by his member firm. The findings also stated that, on behalf of his member firm, Clifford failed to establish, maintain, and enforce adequate written supervisory procedures and a supervisory system reasonably

designed to prevent and detect unauthorized trading by his member firm's registered representatives.

Clifford's suspension began August 19, 2002, and will conclude at the close of business February 18, 2003. (NASD Case #C3A020033)

**David Mark Hopkins (CRD #2176588, Registered Representative, Houston, Texas)** was fined \$19,100 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Hopkins reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. The sanction was based on findings that Hopkins participated in private securities transactions without providing prior written notice to, or receiving written permission from, his member firm.

Hopkins has appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C3A020010)

**Charles Robert Kolesar (CRD #1381404, Registered Representative, Phoenix, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$45,318, including disgorgement of \$40,318 of financial benefits received, and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Kolesar reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kolesar consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notification to, or obtaining written approval from, his member firm.

Kolesar's suspension began August 19, 2002, and will conclude on May 18, 2003. (NASD Case #C3A020035)

**Jon Kwan Lee (CRD #2538075, Registered Principal, Bayside, New York)** was named as a respondent in an NASD complaint alleging that he created and supported a procedure at his member firm to improperly delay customers' ability to transfer their securities holdings or monies to another broker/dealer via the Automated Account Transfer Service (ACATS) process. Specifically, the complaint alleges that Lee directed the change of customer account numbers and the transfer of securities positions and money balances

into the newly created accounts, without customer authorization for the purpose of delaying customer ACATS requests. (NASD Case #C3A020032)

**Mark Horace Love (CRD #1268245, Registered Representative, Tucson, Arizona)** was fined \$25,000 and suspended from association with any NASD member in any capacity for 90 days. The sanction was based on findings that Love participated in private securities transactions without providing prior written notice to his member firm.

Love has appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C3A010009)

**Jerry Stephen Lund (CRD #2201043, Registered Representative, Longmont, Colorado)** was named as a respondent in an NASD complaint alleging that he caused the execution of sell transactions in the account of public customers when he knew, or should have known, that the transactions were unauthorized in that he knew, or should have known, that his authorization to effect transactions in the customers' accounts had been revoked, and that the transactions were inconsistent with the stated intentions of the customers. (NASD Case #C3A020036)

**Thomas Michael Rossi (CRD #2333282, Registered Representative, Bayside, New York)** was named as a respondent in an NASD complaint alleging that he entered unauthorized trades in the accounts of public customers. In addition, the complaint alleges that Rossi failed to preserve the books and records of his member firm in a readily accessible place pursuant to SEC Rule 17a-4, and failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C3A020031)

District 3B Seattle

#### **July Actions**

None.

#### **August Actions**

**Arthur Kenny Bryant (CRD #1827620, Registered Representative, Edmonds, Washington)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Bryant obtained a \$4,000 check drawn on a public

customer's account at his member firm, altered the check to make himself the payee, deposited the check in the net amount of \$3,900 into his personal credit union savings account, and later withdrew the funds for his own purposes, thereby converting the funds to his own use. (NASD Case #C3B020002)

**Dave Hung Trinh (CRD #2916910, Registered Representative, Renton, Washington)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Trinh consented to the described sanction and to the entry of findings that he affixed the signature of a public customer to an account application to open a securities account at a member firm other than his own without the customer's knowledge or consent, and provided his telephone number and e-mail address, falsely representing that they were the customer's telephone number and e-mail address. The findings also stated that Trinh affixed the customer's signature to a margin agreement for the customer's account without the customer's knowledge or consent. In addition, Trinh affixed the customer's signature to a memorandum to the other member firm requesting the address on the account be changed, without the customer's knowledge or consent, and provided his own home address as the new address in the memorandum.

NASD also found that Trinh received a \$24,916.50 check from a public customer to purchase shares of stock; deposited the funds in a money market account linked to the customer's account but failed to purchase the stock; affixed the customer's signature to a \$24,000 check drawn on the money market account payable to Trinh without the customer's knowledge or consent; and deposited the check in his own checking account, thereby converting \$24,000 to his own use and benefit. Furthermore, NASD found that Trinh received a \$423 check from his member firm, payable to the employer of a public customer, to refund an excess contribution to the customer's qualified variable annuity contract; endorsed the check; and deposited it in his own checking account, thereby converting \$423 to his own use and benefit. Moreover, the findings stated that Trinh made false statements in response to an NASD request for information and delivered a false document concealing his conversion of \$423 to NASD to impede the investigation. (NASD Case #C3B020009)

### September Actions

**Arthur Edward Gurr (CRD #232190, Registered Principal, Woodinville, Washington)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gurr consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm. The findings also stated that Gurr failed to respond to NASD requests for information. (NASD Case #C3B020012)

**District 4** Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota

### July Actions

**Beyer & Co. (CRD #1243, Davenport, Iowa)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it permitted registered representatives to conduct securities business and to act in a registered capacity when their registrations had lapsed for non-compliance with the Regulatory Element of the Continuing Education Requirements, and/or that the firm compensated the representatives for securities transactions while their registration was inactive as a result of not completing the Regulatory Element of the Continuing Education Requirement. (NASD Case #C04020015)

**Kent Jay Carter (CRD #2094797, Registered Representative, McCook, Nebraska)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Carter consented to the described sanctions and to the entry of findings that he engaged in the sale of securities to public customers referred to him by a registered representative with another firm, and paid a portion of the commissions received for these sales to the registered representative.

Carter's suspension began June 3, 2002, and concluded at the close of business June 14, 2002. (NASD Case #C04020016)

## **August Actions**

**Tracie Lynn Mason (CRD #4041253, Registered Representative, Minot, North Dakota)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mason consented to the described sanction and to the entry of findings that she altered incoming and outgoing insurance-related checks and converted the funds to her own personal use and benefit. (**NASD Case #C04020017**)

**Martin Ronald Sprenger (CRD #2200424, Registered Representative, Omaha, Nebraska)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Sprenger willfully failed to disclose material facts on his Form U-4. The findings also stated that Sprenger failed to respond to NASD requests for information. (**NASD Case #C04010030**)

## **September Actions**

**Gregg Alan Emde (CRD #2309776, Registered Representative, Ballwin, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Emde consented to the described sanction and to the entry of findings that he deposited checks drawn from public customers' securities and checking accounts made payable to Emde for investment purposes into his own personal bank account without the knowledge or consent of the customer. (**NASD Case #C04020027**)

**K.W. Chambers & Co., (CRD #1432, Clayton, Missouri) and Robert Lewis Chambers (CRD #1231649, Registered Principal, Clayton, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$12,500, jointly and severally. The firm is required to revise its written supervisory procedures with respect to the Regulatory Element of NASD's Continuing Education requirements. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Chambers, permitted registered representatives to perform duties as registered persons while their registration status was inactive due to their failure to timely complete the Regulatory Element of NASD's Continuing Education requirements. The findings also stated that the firm,

acting through Chambers, failed to establish, maintain, and enforce written supervisory procedures designed to fulfill the firm's obligation to comply with the Regulatory Element of NASD's Continuing Education requirements. (**NASD Case #C04020021**)

**Mark Bryon Neumeier (CRD #2181967, Registered Representative, Springfield, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Neumeier consented to the described sanction and to the entry of findings that he intentionally or recklessly employed devices to defraud a customer, and engaged in a course of business that operated as a fraud or deceit upon a customer by making untrue statements of material facts and/or omitting to state material facts necessary to make the statements made, in light of the circumstances in which they were made, not misleading, in connection with the sale of mutual funds shares held in accounts with his member firm, which Neumeier sold through redemptions on behalf of the customer. The findings stated that Neumeier recommended the redemption by a public customer of mutual fund shares held in securities accounts with his member firm and the subsequent issuance of personal checks totaling \$169,230 by the customer payable to Neumeier for investment purposes, when in fact, Neumeier failed to invest the funds for the customer's benefit, converted \$40,000 for his own use and benefit, and applied \$129,230 to other securities accounts with his member firm in which the customer had no beneficial interest. The findings also stated that Neumeier failed to respond to NASD requests for information. (**NASD Case #C04020026**)

**Terry Michael Skoher (CRD #1453144, Registered Representative, Tarpon Springs, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 business days. The fine must be paid before Skoher reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Skoher consented to the described sanctions and to the entry of findings that he failed to properly qualify and/or register with NASD in the appropriate capacity prior to engaging in a securities business and/or functioning as a representative with his member firm.

Skucher's suspension began August 19, 2002, and concluded at the close of business September 9, 2002. (**NASD Case #C04020024**)

District 5     Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Oklahoma, and Tennessee

#### **July Actions**

**Dionne Maria Aubert (CRD #3197843, Registered Representative, New Orleans, Louisiana)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Aubert consented to the described sanction and to the entry of findings that she came into possession of \$5,792 from a bank affiliated with her member firm and converted the funds to her own use and benefit without the knowledge or consent of the customer or the bank. The findings also stated that Aubert failed to respond to NASD requests for information. (**NASD Case #C05020020**)

**Decole LeeAnn Bee (CRD #3251151, Registered Representative, Dallas, Texas)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Bee completed a personal line of credit application in the name of her grandfather and forged his name to the application without his knowledge or consent. NASD also found that Bee executed and processed cash advances and checks on the line of credit totaling \$6,550, thereby converting the funds to her own use and benefit. In addition, Bee failed to respond to NASD requests for information. (**NASD Case #C05010055**)

**Edward Paul Galvan (CRD #2124116, Registered Principal, Addison, Texas)** was named as a respondent in an NASD complaint alleging that he executed an unauthorized transaction in the account of a public customer for \$5,393.75. The complaint also alleges that, without the prior knowledge or consent of his member firm, Galvan deposited \$2,000 into the public customer's account in partial payment for the loss incurred as a result of the unauthorized transaction. In addition, the complaint alleges that Galvan failed to respond to NASD requests for information. (**NASD Case #C05020032**)

**Michael Glyn Grimes (CRD #2859084, Registered Representative, Memphis, Tennessee)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Grimes received a \$323 check from a public customer to pay a premium on his variable life insurance policy; failed to apply the premium payments; and converted the funds to his own use and benefit by endorsing the check and depositing it into a business checking account that he controlled, without the knowledge or consent of the customer. The findings also stated that Grimes failed to respond to NASD requests for information. (**NASD Case #C05010033**)

**Carmell E. Hergert (CRD #4066113, Registered Representative, Beaumont, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. Payment of the fine is required before Hergert reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hergert consented to the described sanctions and to the entry of findings that she willfully failed to disclose a material fact on her Form U-4.

Hergert's suspension began July 1, 2002, and will conclude at the close of business December 31, 2002. (**NASD Case #C05020025**)

**Michael Weldon Norville (CRD #1078005, Registered Representative, Louisville, Kentucky)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$785,612, plus interest, in restitution to public customers. Payment of restitution is required before Norville reassociates with any NASD member following the bar or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Norville consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide his member firm with detailed written notice of the transactions, his role therein, and whether he had received or would receive selling compensation in connection with the transactions. (**NASD Case #C05020028**)

**SCA Development, Inc. (CRD #35451, Birmingham, Alabama), and Beall Dozier Gary Jr. (CRD #2754744, Registered Representative, Birmingham, Alabama)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Gary was also suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in connection with best efforts contingency offerings of securities, the firm, acting through Gary, failed to promptly transmit customer funds to an unaffiliated bank that had agreed to act as escrow agent, but instead held customers' uncashed checks for long periods of time prior to transmitting the checks to the bank.

Gary's suspension will begin August 5, 2002, and will conclude at the close of business August 14, 2002. (NASD Case #C05020022)

**Robert Lawrence Vanderbrook (CRD #2544244, Registered Representative, Metairie, Louisiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 business days. Payment of the fine is required before Vanderbrook reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Vanderbrook consented to the described sanctions and to the entry of findings that he exercised discretionary transactions in the account of a public customer without having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm. The findings also stated that Vanderbrook interfered with his member firm's compliance with NASD Conduct Rule 2230 by delaying the delivery of securities transaction confirmations to a public customer.

Vanderbrook's suspension began June 3, 2002, and will conclude at the close of business July 15, 2002. (NASD Case #C05020019)

**Benjamin Tianbing Wei (CRD #2832553, Registered Principal, Oklahoma City, Oklahoma)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Payment of the fine is required before Wei reassociates

with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wei consented to the described sanctions and to the entry of findings that he maintained accounts with a member firm over which he had discretionary authority without providing written notification to his member firm.

Wei's suspension began July 1, 2002, and concluded at the close of business July 8, 2002. (NASD Case #C05020026)

**Edward Joseph Wolf, Jr. (CRD #471134, Registered Representative, New Orleans, Louisiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. Payment of the fine is required before Wolf reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wolf consented to the described sanctions and to the entry of findings that he participated in private securities transactions away from his member firm and failed to provide his firm with prior written notice of the transactions.

Wolf's suspension began July 1, 2002, and will conclude at the close of business June 30, 2003. (NASD Case #C05020027)

## August Actions

**Allen Gene Davis (CRD #2783495, Registered Representative, Deer Lodge, Tennessee)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Davis consented to the described sanction and to the entry of findings that he received \$3,760.97 in checks from a public customer for investment purposes. The findings stated that Davis cashed the checks and neglected to purchase securities for the account of the public customer before remitting the funds to his member firm after a period of time. (NASD Case #C05020031)

**Rebecca English Lantz (CRD #4250342, Registered Representative, Youngsville, Louisiana)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD

member in any capacity. Without admitting or denying the allegations, Lantz consented to the described sanction and to the entry of findings that she processed credit entries totaling \$1,500 to her personal checking account, thereby converting the funds to her own use and benefit. The findings also stated that Lantz failed to respond to NASD requests for information. (NASD Case #C05020029)

**Paul Edison Renfroe, Jr. (CRD #2557149, Registered Representative, Collierville, Tennessee)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Renfroe consented to the described sanction and to the entry of findings that he received \$84,000 from a public customer for investment purposes, deposited the funds into his personal checking account, purchased contracts totaling \$80,000 in his own name, returned \$4,000 to the customer and, at a later date, transferred ownership of the contracts to the customer. The findings also stated that Renfroe participated in private securities transactions without providing prior written notice to his member firm. (NASD Case #C05020030)

#### **September Actions**

**John Patrick Goldsworthy (CRD #730533, Registered Representative, Metairie, Louisiana)** was barred from association with any NASD member in any capacity. The SEC affirmed the sanction following appeal of an October 2000 NAC decision. The sanction was based on findings that Goldsworthy engaged in private securities transactions without prior written notice to, and approval from, his member firm. (NASD Case #C05940077)

**Hunter Hobson Johnson, III (CRD #2941305, Registered Representative, Montgomery, Alabama)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Johnson consented to the described sanction and to the entry of findings that he exercised discretionary transactions in the account of a public customer without having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm.

Johnson's suspension began August 19, 2002, and will conclude at the close of business September 30, 2002. (NASD Case #C05020035)

**Rory Lyle Thompson (CRD #4019820, Registered Representative, Conway, Arkansas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for four months. The fine must be paid before Thompson reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Thompson consented to the described sanctions and to the entry of findings that he signed the name of a public customer to "Change of Agent of Record & Broker/Dealer" forms for the purpose of changing the broker/dealer of record on variable annuity contracts owned by the customer. The findings also stated that Thompson failed to respond timely to NASD requests for information.

Thompson's suspension began August 19, 2002, and will conclude at the close of business December 18, 2002. (NASD Case #C05020037)

**Christopher Stephen Venetis (CRD #2930555, Registered Representative, Youngsville, Louisiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Venetis consented to the described sanction and to the entry of findings that he executed an unauthorized sale of shares in the account of a public customer in the amount of \$6,206.18, without the customer's knowledge or consent. (NASD Case #C05020038)

**District 6 Texas**

#### **July Actions**

**James Edward Hurley (CRD #2626141, Registered Representative, Plano, Texas)** was named as a respondent in an NASD complaint alleging that he caused checks totaling \$186,000 to be drawn on a public customer's variable annuity account without the customer's knowledge or consent in that Hurley signed the customer's name and/or customer's daughter's name on a withdrawal form, forwarded the form to the issuer of the annuity, and, when the checks were disbursed pursuant to a withdrawal form, Hurley went

to the customer's home to retrieve the check from the mail. The complaint alleges that Hurley subsequently signed the customer's name and/or customer's daughter's name on each check, endorsed the checks with the phrase "pay to the order of James E. Hurley," deposited each check into his personal bank accounts, and utilized the majority of the funds to his personal benefit and enjoyment. In addition, the complaint alleges that Hurley failed to respond to NASD requests for information. (**NASD Case #C06020005**)

#### **August Actions**

None.

#### **September Actions**

**Riley Chad Cochran (CRD #2960214, Associated Person, Arlington, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Cochran reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Cochran consented to the described sanctions and to the entry of findings that he caused the signature of a public customer to be applied on an application and supporting documents for a life insurance policy without the customer's knowledge or consent and submitted them to an insurance company for processing.

Cochran's suspension began September 3, 2002 and will conclude on March 2, 2003. (**NASD Case #C06020006**)

**Patricia Bisch Green (CRD #1320375, Registered Principal, Houston, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$15,000 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Green consented to the described sanctions and to the entry of findings that she effected, or caused to be effected, transactions totaling \$237,679 in the securities account of a public customer, and exercised discretionary power in the account without prior written authorization from the customer or acceptance in writing by her member firm of the account as discretionary. The findings also stated that Green failed to follow a customer's instructions, which resulted in losses in excess of \$300,000 to the customer.

Green's suspension began September 3, 2002 and will conclude at the close of business September 23, 2002. (**NASD Case #C06020007**)

District 7      Florida, Georgia, North Carolina, South Carolina, Virginia, Puerto Rico, the Canal Zone, and the Virgin Islands

#### **July Actions**

**Steven Anthony Anello (CRD #2101112, Registered Principal, Portchester, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any principal or supervisory capacity with a right to reapply after three years, and suspended from association with any NASD member in any capacity for 30 days. In light of the financial status of Anello, no monetary sanctions have been imposed. Without admitting or denying the allegations, Anello consented to the described sanctions and to the entry of findings that he failed to reasonably supervise the registered representatives in his branch to detect and prevent the recurrence of continuous and ongoing sales practice abuses.

Anello's suspension began June 3, 2002, and concluded at the close of business July 2, 2002. (**NASD Case #C07020042**)

**Joseph John Azzata (CRD #2446677, Registered Principal, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any principal or supervisory capacity for six months. Without admitting or denying the allegations, Azzata consented to the described sanctions and to the entry of findings that he failed to reasonably supervise the branch office of his member firm with respect to compliance with the requirements of NASD Rule 3010(b)(2), which relates to the taping of conversations between registered persons and existing and potential public customers.

Azzata's suspension began June 17, 2002, and will conclude at the close of business December 16, 2002. (**NASD Case #C07020036**)

**Wilbur Steven Brown (CRD #33129, Registered Representative, Jacksonville, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any

NASD member in any capacity for eight months, and required to disgorge \$47,520 in commissions to public customers in partial restitution. The fine must be paid and the commissions disgorged before Brown reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Brown consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, for compensation, without providing prior written notice to, and receiving authorization from, his member firm.

Brown's suspension began June 3, 2002, and will conclude at the close of business February 2, 2003. (**NASD Case #C07020034**)

**Bradley James Burgess (CRD #2943905, Registered Principal, Parkland, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and barred from association with any NASD member in any capacity with the right to reapply for association with any NASD member in any capacity after three years. The fine is due and payable before Burgess requests relief from any statutory disqualification resulting from this or any other event or proceeding. Without admitting or denying the allegations, Burgess consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material misrepresentations of fact to public customers in connection with his solicitation of orders to purchase low-priced speculative and other securities. (**NASD Case #C07020038**)

**James Edward Cleary, Jr. (CRD #2655551, Registered Representative, Averturer, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Cleary consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material misrepresentations of fact to public customers in connection with his solicitation of orders to purchase low-priced speculative and other securities.

Cleary's suspension began June 17, 2002, and will conclude at the close of business July 16, 2002. (**NASD Case #C07020041**)

**Luis Javier DelCastillo, II (CRD #2379491, Registered Representative, Lake Worth, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, DelCastillo consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material omissions of fact to public customers in connection with his solicitation of orders to purchase low-priced speculative and other securities.

DelCastillo's suspension began June 17, 2002, and concluded at the close of business June 28, 2002. (**NASD Case #C07020037**)

**Emerson Bennett & Associates, Inc. (CRD #36171, Fort Lauderdale, Florida) and Brently Chad Martin (CRD #2320760, Registered Principal, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$45,000, jointly and severally. In addition, the firm was expelled from NASD membership and Martin was barred from association with any NASD member in any principal or supervisory capacity with a right to reapply after three years from the effective date of the bar. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Martin, failed to timely establish adequate written supervisory procedures for ensuring compliance with the NASD Taping Rule, and failed to begin taping telephone conversations between its registered representatives and existing and potential customers within 30 days of receiving notice. The findings also stated that the firm, acting through Martin, failed to begin taping telephone conversations at a branch office until about 5 1/2 months after receiving notice from NASD, and failed to tape telephone conversations at another branch office from September 30, 2000, through at least December 4, 2000. The findings also stated that the firm, acting through Martin, filed quarterly summary reports with NASD inaccurately reporting the extent to which the firm had taken disciplinary action against certain

registered representatives, and was unable to produce certain specified telephone conversation tape recordings requested by the staff. NASD also found that Martin represented to members of NASD that the firm was in full compliance with the requirements of the Taping Rule when, in fact, he knew, or should have known, that a branch office of the firm had not been taped since at least September 30, 2000. In addition, the firm, acting through Martin, failed to take timely and appropriate action to address and prevent the recurrence of numerous continuous and ongoing instances of sales-practice abuses by the firm's registered representatives disclosed on the firm's tape recording of its registered representatives' phone conversations. (**NASD Case #C07020043**)

**Michael Carroll Gainer (CRD #2753550, Registered Representative, Jacksonville Beach, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for eight months and required to disgorge \$22,000 in commissions to public customers in partial restitution. In light of the financial status of Gainer, no fines have been imposed and the disgorgement of commissions has been reduced from full disgorgement to \$22,000. The commissions must be disgorged before Gainer reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gainer consented to the described sanctions and to the entry of findings that he participated in the sale of promissory notes outside the scope of his employment with his member firms without providing prior written notice to, and receiving authorization from, his member firms.

Gainer's suspension began June 3, 2002, and will conclude at the close of business February 2, 2003. (**NASD Case #C07020033**)

**Anthony Salvatore Gentile (CRD #1307472, Registered Representative, Roswell, Georgia)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gentile consented to the described sanctions and to the entry of findings that he referred a client away from his member firm to

another entity with which the client consummated a financing deal and for which Gentile received a referral fee. The findings also stated that Gentile failed to provide prompt written notice to his member firm of the referral fee.

Gentile's suspension began June 3, 2002, and concluded at the close of business July 2, 2002. (**NASD Case #C07020031**)

**Stephan Jay Giuffrida (CRD #2586987, Registered Representative, Eastchester, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Giuffrida consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material misrepresentations of fact to public customers in connection with his solicitation of customers and prospective customers to purchase equity securities.

Giuffrida's suspension began June 17, 2002, and will conclude at the close of business July 16, 2002. (**NASD Case #C07020039**)

**Alan Bruce Johnston (CRD #1559039, Registered Representative, Williamston, South Carolina)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Johnston engaged in private securities transactions, for compensation, without providing prior written notification to, or receiving authorization from, his member firm. The findings also stated that Johnston failed to respond to NASD requests for information. (**NASD Case #C07010101**)

**Tony Gray Jones (CRD #4223507, Associated Person, Crestview, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Jones consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U-4.

Jones' suspension began June 3, 2002, and will conclude at the close of business June 2, 2003. (NASD Case #C07020032)

**Richard Alfred Saitta (CRD #2592014, Registered Principal, Yorktown Heights, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 30 days, and suspended from association with any NASD member in a principal capacity for one year. Without admitting or denying the allegations, Saitta consented to the described sanctions and to the entry of findings that he made material misrepresentations of fact in the form of unwarranted predictions of substantial price increases without a sufficient basis in connection with his solicitation of public customers and prospective customers to purchase low-priced speculative and other securities. The findings also stated that Saitta failed to reasonably supervise the registered representatives in his branch office in that they made material misrepresentations of fact in connection with the solicitation of public customers and prospective customers to purchase equity securities. Saitta's suspension in any capacity began June 17, 2002, and will conclude at the close of business July 16, 2002. Saitta's suspension in a principal capacity began June 17, 2002, and will conclude at the close of business June 16, 2003. (NASD Case #C07020040)

**Matthew Lee Sechter (CRD #2826214, Registered Representative, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and barred from association with any NASD member in any capacity with the right to reapply for association with any NASD member in any capacity after three years. The fine is due and payable before Sechter reassociates with any NASD member in any capacity or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sechter consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material misrepresentations of fact to public customers in connection with his solicitation of orders to purchase low-priced speculative and other securities. (NASD Case #C07020035)

**Frank James Varsalona (CRD #3211699, Registered Representative, Margate, Florida)** was barred from association with any NASD member in any capacity.

The sanction was based on findings that Varsalona effected unauthorized transactions in the accounts of public customers. (NASD Case #C07010086)

**Richard Irving Weise (CRD #2023552, Registered Principal, Eustis, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000, including disgorgement of \$12,460 in earned commissions, and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Weise reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Weise consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm.

Weise's suspension began July 1, 2002, and will conclude at the close of business March 31, 2003. (NASD Case #C07020046)

#### **August Actions**

**Kevin Eric Aizenshtat (CRD #2860587, Registered Representative, Naples, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$3,500 and suspended from association with any NASD member in any capacity for five business days. The fine must be paid before Aizenshtat reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. In light of Aizenshtat's payment of \$28,105.75 in restitution to the customer, no additional monetary sanction has been imposed. Without admitting or denying the allegations, Aizenshtat consented to the described sanctions and to the entry of findings that he exercised discretionary authority in the account of a public customer, pursuant to oral authority granted by the customer, without having that authority reduced to writing and without having the account accepted in writing by his member firm. The findings also stated that Aizenshtat negligently misrepresented that a bond purchased by a client was returning principal with its interest payments when, in fact, it was not, causing the client to sell the bond.

Aizenshtat's suspension began August 5, 2002, and concluded at the close of business August 9, 2002. (NASD Case #C07020056)

**Brent Allen Atwood (CRD #2540982, Registered Principal, Durham, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Atwood consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing written notice to, or obtaining written approval from, his member firm. The findings stated that Atwood received \$20,000 from public customers to purchase Class A shares in a security that Atwood claimed to own although he did not, and failed to obtain such shares to fulfill his agreement with the customers. NASD found that Atwood made improper use of these funds or converted the funds to his own use before repaying \$19,500 to the customers. (NASD Case #C07020047)

**Thomas Rayvon Daye (CRD #2596342, Registered Representative, Raleigh, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Daye consented to the described sanction and to the entry of findings that he submitted wire transfer instructions to his member firm, causing \$180,000 in funds to be transferred from client accounts to a bank account under his control without the authorization of the clients. The findings also stated that Daye failed to respond to NASD requests for information. (NASD Case #C07020055)

**Paul DePasquale (CRD #2832113, Registered Representative, Miami Beach, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 90 days. Without admitting or denying the allegations, DePasquale consented to the described sanctions and to the entry of findings that he acted in a registered capacity while his registration was inactive. In addition, NASD found that DePasquale provided false testimony during an NASD on-the-record interview.

DePasquale's suspension began July 15, 2002, and will conclude October 12, 2002. (NASD Case #C07020050)

**Juan Gascot-Jimenez (CRD #1385156, Registered Representative, Rio Piedras, Puerto Rico)** was barred from association with any NASD member in any capacity. The sanction was based on findings that

Gascot-Jimenez possessed and reviewed unauthorized materials during his Series 7 qualification exam.

Gascot-Jimenez has appealed this decision to the NAC, and the sanction is not in effect pending consideration of the appeal. (NASD Case #C07020018)

**Kim Ione Halliburton (CRD #1058579, Registered Principal, Dunedin, Florida) and Carl Dominic Martellaro (CRD #320959, Registered Principal, Chico, California)** submitted a Letter of Acceptance, Waiver, and Consent in which Halliburton was fined \$7,500, jointly and severally, suspended from association with any NASD member in a supervisory capacity for 90 days, and suspended from association with any NASD member as a financial and operations principal (FINOP) for 30 days. Martellaro was fined \$10,000 and barred from association with any NASD member in any principal or proprietary capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that a member firm, acting through Halliburton, failed to maintain properly adequate net capital while conducting a securities business. The findings also stated that a member firm, acting through Halliburton, failed to establish, maintain, and enforce a supervisory system and written supervisory procedures reasonably designed to achieve compliance with rules and regulations applicable to sales practices by registered representatives, and failed to supervise a branch office. NASD also found that Martellaro acted in a principal capacity while failing to be registered with NASD in any capacity, and the member firm, acting through Halliburton, permitted Martellaro to act in a principal capacity without registration as such with NASD.

Halliburton's suspension in a supervisory capacity began August 5, 2002, and will conclude November 2, 2002. Halliburton's suspension in a FINOP capacity began August 5, 2002, and will conclude at the close of business September 3, 2002. (NASD Case #C07020053)

**Gene Louis Lancour (CRD #3164906, Registered Representative, Hampton, Virginia)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lancour consented to the described sanction and to the entry of findings that he received a \$2,400.05 check from a public customer to be used for investment purposes, cashed the check, and failed to make the investment as

directed. The findings also stated that Lancour held the customer's funds until he returned them with interest, but misused them in that he failed to make the investment as directed and held the funds for over two months before returning them to the customer. (NASD Case #C07020029)

**James Hugh Long (CRD #1790073, Registered Principal, Plant City, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 18 months. In light of the financial status of Long, no monetary sanctions have been imposed. Without admitting or denying the allegations, Long consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Long's suspension began July 15, 2002, and will conclude at the close of business January 14, 2003. (NASD Case #C07020052)

**Patrick Hoell Smith (CRD #1821303, Registered Principal, Gastonia, North Carolina)** was fined \$30,000, suspended from association with any NASD member in a general securities principal and FINOP capacities for two years, suspended from association with any NASD member in any capacity for three months, and ordered to requalify by exam as a general securities principal and FINOP before he resumes those responsibilities. For one year following Smith's association with any NASD member, his firm shall review and pre-approve all transactions for his personal accounts (including all accounts in which he has a beneficial interest), and require that he have sufficient funds in his accounts to settle all transactions before they are executed. The sanctions were based on findings that Smith effected purchases of securities in his personal securities account for a total purchase price of \$11,593,471.98, running the account as if it were a proprietary trading account without paying for the purchases as required by Regulation T. The findings also stated that Smith netted out his short-term positions against other trades in his account because his member firm was self-clearing and his strategy was to sell each position before payment was due. NASD also found that Smith, as FINOP for his firm, arranged for extensions of credit because he was unable to pay for the purchases effected in his account, in violation of Regulation X.

Smith's suspension as a general securities principal and FINOP began July 1, 2002, and will conclude at the close of business June 30, 2004. Smith's suspension in any capacity began July 1, 2002, and will conclude at the close of business September 30, 2002. (NASD Case #C07010095)

**The Partners Financial Group, Inc. (CRD #31979, Miami, Florida) and Oilda Caradad Hernandez (CRD #1076766, Registered Principal, Miami, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000, jointly and severally, with Hernandez. In addition, Hernandez was suspended from association with any NASD member as a general securities principal for five business days. Without admitting or denying the allegations, the firm and Hernandez consented to the described sanctions and to the entry of findings that they permitted a representative to act in a registered capacity while his registration was inactive. The findings also stated that the firm and Hernandez failed to maintain written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules regarding monitoring compliance with the requirements of the Regulatory Element of continuing education requirements by its registered representatives.

Hernandez' suspension began July 15, 2002, and concluded at the close of business July 19, 2002. (NASD Case #C07020049)

### September Actions

**Jeffrey Clyde Adams (CRD #2833013, Registered Representative, Lake Mary, Florida)** was named as a respondent in an NASD complaint alleging that he effected the purchase of securities in the accounts of public customers without the prior authorization of the customers. The complaint also alleges that Adams created and transmitted falsified and unauthorized requests to his member firm's clearing firm for \$18,016 to be transferred from his member firm's error account and credited to the accounts of public customers for the incurred losses that resulted from Adams' unauthorized trades in their accounts. In addition, the complaint alleges that Adams exercised discretion in effecting the sale and purchase of stocks in the account of a public customer without obtaining the discretionary authority in writing from the customer,

and without having the account accepted as a discretionary account by his member firm. (**NASD Case #C07020058**)

**Anglo-American Investor Services Corp. (CRD #14278, Charlottesville, Virginia)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$7,000, jointly and severally, and fined an additional \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed officers of the firm to engage in a securities business while their registrations were inactive for failing to comply with the Regulatory Element of NASD's Continuing Education requirements. The findings also stated that the firm, acting through an individual, failed to adopt, implement, and enforce adequate written supervisory procedures reasonably designed to ensure compliance with NASD Membership and Registration Rule 1120. (**NASD Case #C07020064**)

**Robert Elmer Bowman (CRD #2837329, Registered Representative, Naples, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 12 months, and ordered to disgorge \$19,500 in commissions received to public customers in partial restitution. Bowman must pay the fine and disgorgement immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bowman consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Bowman's suspension began September 3, 2002, and will conclude at the close of business September 2, 2003. (**NASD Case #C07020062**)

**C.B. Hill & Associates, Inc. (CRD #23786, Jacksonville, Florida) and Wise Alsop Skillman, III (CRD #1757886, Registered Principal, Jacksonville, Florida)** submitted an Offer of Settlement in which the firm was censured and fined \$10,000, and Skillman was fined \$5,000 and suspended from association with any NASD member in any principal capacity for 10 business days. The fine must be paid before Skillman reassociates with any NASD member or before requesting relief from any

statutory disqualification. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Skillman, failed to implement, or to implement timely, taping systems to record all telephone conversations between the firm's registered representative and clients or prospective clients at its branch offices. The findings also stated that the firm, acting through Skillman, failed to establish, maintain, and enforce supervisory procedures for the supervision of the firm's registered representatives telemarketing activities or to do so in a timely manner.

Skillman's suspension began February 19, 2002, and concluded at the close of business March 2, 2002. (**NASD Case #C07010055**)

**Consultiva Securities, Inc. (CRD #103818, Hato Rey, Puerto Rico)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$5,000, jointly and severally, and fined \$7,500 individually. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to ensure compliance with NASD Rule 1120. The findings also stated that the firm allowed an officer of the firm to engage in a securities business while her registrations were inactive after failing to complete the Regulatory Element of NASD's Continuing Education requirements. In addition, NASD found that the firm failed to file an annual audited report within the time period prescribed by the Securities and Exchange Commission (SEC) Act Rule 17a-5. (**NASD Case #C07020063**)

**George Mallory Freeman, Jr. (CRD #835077, Registered Representative, Longwood, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Freeman consented to the described sanction and to the entry of findings that he engaged in private securities transactions, for compensation, without prior written authorization from his member firms to participate in these transactions. (**NASD Case #C07020060**)

**Forrest G. Harris (CRD #4219457, Registered Representative, Charlotte, North Carolina)** was fined \$7,500 and suspended from association with any NASD member in any capacity for two months. The sanctions are based on findings that Harris submitted an inaccurate Form U-4 to NASD.

Harris' suspension began August 5, 2002, and will conclude at the close of business October 4, 2002. (NASD Case #C07010084)

**Rodney Louis (CRD #2842334, Registered Representative, Wellington, Florida)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Louis consented to the described sanction and to the entry of findings that he engaged in business activities outside the scope of his employment with his member firm, for compensation, and failed to provide written notification to his member firm. The findings also stated that Louis failed to respond to NASD requests for information. (NASD Case #C07020054)

**Nelson Daniel Polite, Jr. (CRD #2698001, Registered Principal, Orlando, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Polite failed to respond to NASD requests for information. The findings also stated that Polite entered into a written agreement with a public customer to trade his account and share the profits earned in the account without prior written authorization from his member firm to share in the profits. (NASD Case #C07020021)

**Todd Alan Shermer (CRD #2921738, Registered Representative, Tarpon Springs, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$37,402.37, including disgorgement of \$32,402.37 in earned commissions, and suspended from association with any NASD member in any capacity for nine months. Shermer must pay the fine immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Shermer consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to provide prompt written notice to his member firm.

Shermer's suspension began August 5, 2002, and will conclude on May 4, 2003. (NASD Case #C07020059)

**District 8** Illinois, Indiana, Michigan, part of upstate New York (the counties of Monroe, Livingston, and Steuben, and the remainder of the state west of such counties) Ohio, and Wisconsin

**District 8A** Chicago

#### **July Actions**

**Brian Coleman Barge (CRD #3243595, Registered Representative, Detroit, Michigan)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Barge received \$1,225 from public customers for investment purposes and failed to apply the funds as instructed, and, without the customers' knowledge and authorization, used the funds for his own benefit or for some purpose other than the benefit of the customers. NASD also found that Barge affixed the signature of a public customer to an application to purchase an automobile insurance policy without the knowledge or consent of the customer. In addition, Barge failed to respond to NASD requests for information and documents. (NASD Case #C8A010078)

**Paul Jerome House, III (CRD #2471155, Registered Principal, Decatur, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, House consented to the described sanction and to the entry of findings that he participated in private securities transactions away from his member firm and failed and neglected to provide his firm with prior written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions. The findings also stated that House opened, or caused to be opened, a securities account with another member firm; failed to provide written notice to his member firm of his intention to execute transactions at the other firm; and failed to advise the firm at which he had opened the account of his association with his member firm. In addition, NASD found that House responded untruthfully to NASD requests for information and documents. (NASD Case #C8A020028)

**Thomas Joseph Kigin (CRD #4134681, Registered Representative, Downers Grove, Illinois)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Kigin provided false information on his Form U-4 and failed to respond to NASD requests for information. (NASD Case #C8A010090)

**William Scott Langley (CRD #2267018, Registered Representative, Adrian, Michigan)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Langley consented to the described sanction and to the entry of findings that he received checks totaling \$43,106 from a public customer for investment purposes made payable to a company that Langley owned and controlled. The findings stated that Langley failed and neglected to invest the funds as instructed by the customer and instead endorsed the checks, deposited them into his own business account, and used the funds for his own personal benefit without the customer's knowledge or consent. (NASD Case #C8A020027)

**MMS Securities, Inc. (CRD #43120, Troy, Michigan), Craig Frank Moncher (CRD #1463324, Associated Person, Bloomfield Hills, Michigan), James Sylvester Currier (CRD #2070654, Registered Principal, Bloomfield Hills, Michigan), and Neal Appelbaum (CRD #2534089, Registered Representative, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured. The firm, Moncher, and Currier were fined \$35,000, jointly and severally; the firm and Moncher were fined \$5,000, jointly and severally; and the firm and Currier were fined \$7,500, jointly and severally. Additionally, the firm and Appelbaum were fined \$40,000, jointly and severally, and the firm was fined \$2,500. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Appelbaum, failed to prepare and maintain an accurate and current general ledger, current trial balance sheet, income statement and stock record, and failed to prepare and maintain adequate supporting documentation to evidence compliance with SEC Rule 15C3-1.

The findings also stated that the firm, acting through Appelbaum, failed to evidence the accuracy of FOCUS Part IIA reports and failed to provide support evidencing the accuracy of the amount required to be

deposited in its Special Reserve Bank account. NASD also found that the firm failed to establish, maintain, and enforce adequate written supervisory procedures designed to achieve compliance with applicable securities laws, regulations, and NASD rules with respect to the monitoring of customer stock positions, location of securities, and the identification and correction of security position differences. In addition, NASD determined that the firm, acting through Currier, failed to timely report to NASD customer complaints, and the firm, acting through Moncher and Currier, permitted the distribution of sales literature that emphasized the advantages and savings of investing in a fractional share investment program but omitted material facts. The firm also allowed Moncher to act in a principal capacity without being properly registered with NASD. (NASD Case #C8A020030)

**Edmond Namordi (CRD #1036774, Registered Representative, Skokie, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 30 business days. Payment of the fine is required before Namordi reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Namordi consented to the described sanctions and to the entry of findings that he engaged in outside business activities for which he received compensation without prior written notice to his member firm.

Namordi's suspension began July 1, 2002, and will conclude at the close of business August 12, 2002. (NASD Case #C8A020034)

**Matthew Edward Nolen (CRD #4132361, Registered Representative, Mt. Zion, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Payment of the fine is required before Nolen reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Nolen consented to the described sanctions and to the entry of findings that he participated in private securities transactions, failed to provide his member firm with detailed written notice of the transactions and his role therein, and failed to receive permission from his member firm to engage in such transactions.

Nolen's suspension began June 17, 2002, and concluded at the close of business June 28, 2002. (**NASD Case #C8A020029**)

**Stephen Dean Palmer (CRD #1667018, Registered Representative, Tecumseh, Michigan)** submitted an Offer of Settlement in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 business days. Payment of the fine is required before Palmer reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Palmer consented to the described sanctions and to the entry of findings that he settled a customer complaint away from his member firm.

Palmer's suspension began July 15, 2002, and will conclude at the close of business August 25, 2002. (**NASD Case #C8A020009**)

**Bobby R. Turner, Jr. (CRD #3252999, Registered Representative, Westland, Michigan)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Turner willfully failed to disclose a material fact on his Form U-4. (**NASD Case #C8A010063**)

**James Arthur Will (CRD #2701284, Registered Representative, Indianapolis, Indiana)** was named as a respondent in an NASD complaint alleging that he purchased and sold shares of stock in the account of a public customer without the knowledge or consent of the customer, and in the absence of written or oral authorization to exercise discretion in the account. The complaint also alleges that Will failed to respond to NASD requests for information and documents. (**NASD Case #C8A020026**)

#### **August Actions**

**Robert Wells Bailey (CRD #1622898, Registered Representative, Wayne, Michigan)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 40 days. The fine must be paid before Bailey reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bailey consented

to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Bailey's suspension began July 15, 2002, and will conclude at the close of business August 23, 2002. (**NASD Case #C8A020041**)

**William Benjamin Muller Jr. (CRD #1892075, Registered Representative, Novi, Michigan)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Muller failed to disclose a material fact on his Form U-4. NASD also found that Muller failed to respond to requests for information. (**NASD Case #C8A010091**)

**David Bruce Novak (CRD #2700222, Registered Principal, Winnetka, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to pay \$96,898, plus interest, in restitution to a public customer. The restitution must be paid before Novak reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Novak consented to the described sanctions and to the entry of findings that he made improper use of approximately \$96,898 from the securities accounts of a public customer. The findings also stated that Novak failed to respond to an NASD request for information. (**NASD Case #C8A020035**)

**Fred John Pascaris (CRD #2213626, Registered Representative, Dearborn Heights, Michigan)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Pascaris engaged in private securities transactions, for compensation, and failed to provide written notice to, and obtain prior written authorization from, his member firm to engage in the private securities transactions. The findings also stated that Pascaris willfully failed to timely update his Form U-4. (**NASD Case #C8A010096**)

**Charles Eugene Williams (CRD #727212, Registered Principal, Macy, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for three months, and required to disgorge \$4,080 in commissions to public customers.

Without admitting or denying the allegations, Williams consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm.

Williams' suspension began July 1, 2002, and will conclude at the close of business September 30, 2002. (NASD Case #C8A020043)

**Craig Frank Wisbiski (CRD #2711742, Registered Supervisor, Williamston, Michigan)** was named as a respondent in an NASD complaint alleging that he caused at least \$160,970 to be withdrawn from the securities account of a public customer for which he was the broker, deposited the funds into his own securities account without the customer's knowledge or consent, and used the funds for his own personal benefit or for some purpose other than the benefit of the customer. The complaint also alleges that Wisbiski induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices or contrivances by inducing public customers to invest funds which he represented would be placed with a "private investment group" and earn 15 percent tax-free annual interest, when, in fact, said investment was nonexistent and Wisbiski used the customer funds for his own purposes. (NASD Case #C8A020036)

#### **September Actions**

**Ellen Marie Aleshire (CRD #2411031, Registered Representative, Antioch, Illinois)** was fined \$15,000, suspended from association with any NASD member in all capacities for 30 days, and ordered to requalify as a general securities representative and a general securities principal. The sanctions were based on findings that Aleshire disseminated to members of the public memoranda and form letters soliciting the purchase of securities that were misleading.

Aleshire's suspension began August 5, 2002, and concluded at the close of business September 3, 2002. (NASD Case #C8A010060)

**Michael Philip Kummerer (CRD #4059287, Registered Representative, Naperville, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Kummerer reassociates with any NASD member following the suspension or before

requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kummerer consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on a Form U4.

Kummerer's suspension began August 19, 2002, and will conclude at the close of business February 18, 2003. (NASD Case #C8A020047)

**Jamie Mireles (CRD #4385949, Associated Person, Merrillville, Indiana)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Mireles willfully filed a false Form U-4 and failed to respond to NASD requests for information. (NASD Case #C8A020004)

**Michael John Mussay (CRD #2147562, Registered Principal, Grayslake, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Mussay consented to the described sanctions and to the entry of findings that, under the mistaken belief that the customer had given consent, Mussay affixed the signature of a public customer to a mutual fund Change of Dealer Authorization Form without the knowledge or consent of the customer.

Mussay's suspension began August 15, 2002, and concluded at the close of business August 28, 2002. (NASD Case #C8A020048)

**Ryan, Beck & Co., LLC (CRD #3248, Livingston, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$31,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report OTC transactions in high-yield securities that are not otherwise reported during the operating hours of Fixed Income Pricing System<sup>SM</sup> (FIPS<sup>SM</sup>) or that are not executed through FIPS. NASD also found that the firm failed to accurately prepare order memoranda ("order tickets"), in that the firm failed to memorialize the time of entry and/or the correct time of execution of order tickets for equity and high-yield fixed income securities transactions, and failed to maintain order tickets for transactions in high-yield fixed income securities. The findings also stated that the firm was the underwriter for a firm commitment underwriting in the IPO of an

issuer, and, in connection with the IPO, the firm received payments for the purchase of common stock from public customers prior to the effective date of the Offering. (**NASD Case #C8A020046**)

District 8B Cleveland

#### **July Actions**

**James Patrick Maher (CRD #2183507, Registered Representative, Loveland, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Maher reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Maher consented to the described sanctions and to the entry of findings that he applied for and received personal bank loans solely in the name of his wife and obtained these loans in the total amount of \$10,550 by forging his wife's signature on the loan applications without her knowledge, authorization, or consent.

Maher's suspension began July 15, 2002, and will conclude at the close of business July 14, 2003. (**NASD Case #C8B020013**)

**Michael Jay Rudolph (CRD #1199943, Registered Representative, Twinsburg, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$90,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Rudolph reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rudolph consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to provide his member firm with prompt written notice of his activities.

Rudolph's suspension began June 17, 2002, and will conclude at the close of business June 16, 2003. (**NASD Case #C8B020011**)

**Thomas Michael Thomas, II (CRD #2070738, Registered Representative, Chagrin Falls, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any

capacity. Without admitting or denying the allegations, Thomas consented to the described sanction and to the entry of findings that he willfully failed to disclose material information on his Forms U-4. The findings also stated that Thomas failed to respond to NASD requests for documents and information. (**NASD Case #C8B020012**)

#### **August Actions**

None.

#### **September Actions**

**Bari Lee Courts (CRD #2202457, Registered Representative, Cincinnati, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,165, including disgorgement of \$7,665 in commissions, and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Courts reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Courts consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to provide his member firm with prompt written notice of his activities. Courts' suspension began August 19, 2002, and will conclude at the close of business September 17, 2002. (**NASD Case #C8B020015**)

**David Phillip Scheyer (CRD #1362617, Registered Representative, Cincinnati, Ohio)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Scheyer received at least \$8,459.01 from public customers representing payments for insurance premiums, failed to apply the premium payments to the applicable policies, and failed to use the funds to benefit the insurance customers in any manner. The findings also stated that Scheyer failed to respond to NASD requests for information. (**NASD Case #C8B020001**)

**Sierra Brokerage Services, Inc. (CRD #36573, Columbus, Ohio), Richard M. Geiger (CRD #873869, Registered Representative, Morton, Illinois), and Jeffrey Allen Richardson (CRD #736249, Registered Principal, Columbus, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm and Richardson were censured and fined \$10,000, jointly and severally, and Geiger was fined \$10,000 and suspended from

association with any NASD member in any capacity for 20 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Richardson, permitted Geiger and another individual to function in a capacity requiring registration as an equity trader when they were not registered in that capacity.

Geiger's suspension began August 19, 2002, and will conclude at the close of business September 16, 2002. (**NASD Case #C8B020014**)

District 9A Philadelphia

#### **July Actions**

**William Hamilton Averill (CRD #1049192, Registered Representative, West Chester, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two months. The fine must be paid before Averill reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Averill consented to the described sanctions and to the entry of findings that he sold viatical settlement contracts outside the scope of his employment with his member firm, for compensation, and failed to provide prompt written notice of the sales to his member firm.

Averill's suspension began June 3, 2002, and will conclude at the close of business August 2, 2002. (**NASD Case #C9A020023**)

**Howard Daniels (CRD #4010119, Registered Representative, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$641.37 in restitution to a bank. The restitution must be paid before Daniels requests relief from any statutory disqualification. Without admitting or denying the allegations, Daniels consented to the described sanctions and to the entry of findings that while working as a "Specialty Banker" with a bank that was an affiliate of his member firm, he took \$641.37 from the bank without its authorization or consent. The findings also stated that Daniels failed to respond to NASD requests for information. (**NASD Case #C9A020022**)

**Victor Mowat (CRD #341765, Registered Representative, Trenton, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mowat consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for documents and information. (**NASD Case #C9A020021**)

**Alexander Osterneck (CRD #1663321, Registered Representative, Palm Beach, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Osterneck failed to respond timely to NASD requests for information and to appear for an on-the-record interview. Osterneck has appealed this decision to the NAC, and the sanction is not in effect pending consideration of the appeal. (**NASD Case #C9A010006**)

**John Sherwood Wilson, Jr. (CRD #1348671, Registered Representative, Dallas, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Wilson reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Wilson consented to the described sanctions and to the entry of findings that he failed to respond timely to NASD requests for information and documents.

Wilson's suspension began July 1, 2002, and will conclude at the close of business December 31, 2002. (**NASD Case #C9A020025**)

#### **August Actions**

**Edward Hossein Haghani (CRD #3055635, Associated Person, King of Prussia, Pennsylvania)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Haghani caused an unauthorized withdrawal of \$650 from the bank account of a public customer for his own personal financial benefit and failed to respond to NASD requests for information. (**NASD Case #C9A020003**)

**Tameka Darsaleik Johnson (CRD #2828002, Registered Representative, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The

fine must be paid before Johnson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Johnson consented to the described sanctions and to the entry of findings that she willfully failed to amend her Form U-4 to disclose a material fact.

Johnson's suspension began July 15, 2002, and will conclude at the close of business July 14, 2003. (**NASD Case #C9A020026**)

#### **September Actions**

**Emad Amin Alwan (CRD #2582497, Registered Representative, Arnold, Maryland)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to disgorge \$106,392 in commissions in partial restitution to public customers. Alwan must pay the restitution before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Alwan consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm. (**NASD Case #C9A020028**)

District 9B New Jersey

#### **July Actions**

**Harold Philip Donnerstag (CRD #2691932, Registered Representative, Matawan, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Donnerstag consented to the described sanctions and to the entry of findings that he purchased shares of stock for public customers without the customers' authorization.

Donnerstag's suspension began July 1, 2002, and concluded at the close of business July 12, 2002. (**NASD Case #C9B020038**)

**George Robert Gonzalez (CRD #1266143, Registered Principal, Pompton Lakes, New Jersey)** submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, and ordered to pay \$8,000 in

restitution to a public customer. Proof of restitution must be provided to NASD within 30 days of payment of the restitution or Gonzalez will be suspended from association with any NASD member in any capacity until such proof has been provided. Without admitting or denying the allegations, Gonzalez consented to the described sanctions and to the entry of findings that he recommended and effected purchase transactions in the accounts of public customers without having reasonable grounds for believing that these recommendations and subsequent transactions were suitable for the customers on the basis of their financial situation, investment objectives, and needs.

Gonzalez' suspension began July 1, 2002, and will conclude at the close of business July 30, 2002. (**NASD Case #C9B010093**)

**Brian Joseph Nagy (CRD #2652316, Registered Representative, East Brunswick, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Nagy consented to the described sanction and to the entry of findings that he converted \$36,033 of a public customer's funds for his own use and benefit without the customer's knowledge, authorization, and consent. (**NASD Case #C9B020041**)

**Stephen Robert Walling (CRD #2265946, Registered Representative, Jackson, New Jersey)** was named as a respondent in an NASD complaint alleging that he purchased, or caused to be purchased, securities in the accounts of public customers without the prior knowledge, authorization, or consent of the customers. The complaint also alleges that Walling failed to respond to NASD requests for information. (**NASD Case #C9B020039**)

**William Scott & Co., L.L.C. (CRD #14979, Union, New Jersey) and Joseph William Glodek (CRD #223163, Registered Principal, Somerset, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were each censured and fined \$10,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Glodek, failed to establish, maintain, and enforce supervisory procedures reasonably designed to achieve compliance with NASD rules. The findings stated that the firm, acting through Glodek, failed to maintain certain

correspondence and have it reviewed by a supervisory principal; failed to evidence in writing the review of its transactions by a supervisory principal; and failed to establish, maintain, and enforce adequate written supervisory procedures relating to NASD Conduct Rule 3070, trade reporting, and continuing education.

Additionally, NASD found that the firm, acting through Glodek, failed to report customer complaints; failed to prepare and maintain an adequate Need Analysis and written training plan for the Firm Element of NASD's Continuing Education Program; and failed to provide Firm Element training to its covered persons. Moreover, NASD found that the firm, acting through Glodek, failed, within 90 seconds after execution, to transmit through the Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) last sale reports of transactions in over-the-counter (OTC) equity securities, and failed to designate through ACT such last sale reports as late and failed to show the correct time of execution on brokerage order memoranda. Furthermore, the findings stated that the firm, acting through Glodek, executed short sale transactions and failed to make an affirmative determination prior to executing such transactions, and executed short sale transactions and failed to make an affirmative determination prior to executing such transactions. (NASD Case #C9B020042)

#### **August Actions**

**Justin Edward Apgar (CRD #2770606, Registered Representative, Wall Township, New Jersey)** was named as a respondent in an NASD complaint alleging that he recommended to a public customer that he invest money in a mutual fund rather than keeping the money in certificates of deposit. The complaint also alleges that Apgar knowingly or recklessly guaranteed the customer against loss and knowingly or recklessly informed the customer that the fund would pay a guaranteed rate. In addition, the complaint alleges that Apgar forged, or caused to be forged, the signature of his supervisor on a letter sent to the customer, without the supervisor's knowledge or consent. (NASD Case #C9B020046)

**Henry Joseph Jedziniak (CRD #1731003, Registered Representative, Bernardsville, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Jedziniak consented to the described

sanction and to the entry of findings that he failed to respond to an NASD request to appear for an on-the-record interview. (NASD Case #C9B020044)

**Jack Alan Moloney (CRD #2190471, Registered Principal, Hoboken, New Jersey)** submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for one year and required to pay \$20,000 in disgorgement of commissions in partial restitution to public customers. In the light of the financial status of Moloney, no fine has been imposed and the restitution amount was reduced. Restitution must be paid before Moloney reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Moloney consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Moloney's suspension began August 5, 2002, and will conclude at the close of business August 4, 2003. (NASD Case #C9B020010)

**James Patrick Philbin (CRD #721998, Registered Representative, Dunellen, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for six months, and required to disgorge \$25,000 in commissions in partial restitution to public customers. The fine and restitution must be paid before Philbin reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Philbin consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Philbin's suspension began August 5, 2002, and will conclude at the close of business February 4, 2003. (NASD Case #C9B020045)

#### **September Actions**

**Delesley Dessasau (CRD #4188874, Associated Person, East Orange, New Jersey)** was barred from association with any NASD member in any capacity. The sanction

was based on findings that Dessasau willfully filed a false Form U-4. Dessasau also failed to respond to NASD requests for information. (**NASD Case #C9B020015**)

**Matthew Jun Kang (CRD #2855301, Registered Representative, Fort Lee, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kang consented to the described sanction and to the entry of findings that at various time periods, without authorization, he released hold designations that had been placed on collateral that his customers had pledged in connection with loans each customer had obtained through a bank. The findings stated that by improperly releasing the hold designations, Kang permitted his customers to liquidate their collateral, thereby leaving the loans unsecured. (**NASD Case #C9B020049**)

**Joseph Anthony Sanchez (CRD #2393619, Registered Representative, Tampa, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Sanchez failed to respond to NASD requests for documents and information. Sanchez also executed unauthorized transactions in a public customer's account. (**NASD Case #C9B020018**)

**The Key Group Inc. (CRD #42373, Ramsey, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$7,000, fined \$4,180, jointly and severally, and required to pay \$3,320, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it effected transactions for public customers of various municipal bonds on a principal basis at prices that were not fair and reasonable without taking into consideration all relevant factors. NASD also found that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to ensure compliance with the Municipal Securities Rulemaking Board (MSRB) Rule concerning municipal markups. The findings also stated that the firm engaged in activity that was not provided for in the firm's membership agreement and that constituted a material change in the firm's business operations. (**NASD Case #C9B020051**)

District 10 The five boroughs of New York City, and Long Island

#### **July Actions**

**James Henry Bond, III (CRD #2001777, Registered Representative, New York, New York)** was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanction following appeal of an OHO decision. The sanction was based on findings that Bond executed unauthorized transactions in the accounts of public customers. (**NASD Case #C10000210**)

**John Joseph Buglino (CRD #1112971, Registered Representative, Oakdale, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Buglino willfully failed to disclose information on his Form U-4. (**NASD Case #C10010155**)

**Vinson Foresta (CRD #2567149, Registered Representative, Edison, New Jersey)** submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Foresta reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Foresta consented to the described sanctions and to the entry of findings that, in the solicitation of public customers to purchase warrants and initial public offering (IPO) units, he intentionally, or, at a minimum, recklessly, made material, misleading, and false representations to public customers that were without a reasonable basis. The findings also stated that Foresta, acting intentionally, or, at a minimum, recklessly, made material, misleading, and false representations to a public customer to induce the customer to ratify unauthorized transactions in his account that had been effected by another registered representative without the prior knowledge, authorization, or consent of the customer. In addition, NASD found that Foresta sold, or caused to be sold, warrants from the account of a public customer without the customer's prior knowledge, authorization, or consent.

Foresta's suspension began June 3, 2002, and will conclude at the close of business June 2, 2004. (**NASD Case #C10010004**)

**George Michael Goritz (CRD #226024, Registered Representative, New York, New York)** was fined \$82,500 and suspended from association with any NASD member in any capacity for six months. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Goritz participated in private securities transactions without giving prior written notice to, and obtaining written approval from, his member firms. The findings also stated that Goritz disseminated an Offering Memorandum that contained material misrepresentations regarding Goritz' investment banking experience, and that he was reckless in using the Offering Memorandum to solicit investors without reviewing it and correcting the misrepresentation regarding his investment banking experience.

Goritz' suspension began July 1, 2002, and will conclude at the close of business December 31, 2002. (NASD Case #C10000037)

**Vernard Benny Greene, Jr. (CRD #2831764, Registered Representative, Brooklyn, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Greene made unsuitable recommendations to public customers when he recommended, without a reasonable basis, the purchase of speculative securities in their individual retirement accounts. The findings also stated that Greene made baseless price predictions to public customers in connection with the purchase of speculative securities. In addition, NASD found that Greene failed to respond to NASD requests for information and documents. (NASD Case #C10010164)

**Chet C. Harris (CRD #2770791, Registered Representative, Brooklyn, New York)** was barred from association with any NASD member in any capacity and ordered to pay \$222,000, plus interest, in restitution to public customers. The sanctions were based on findings that Harris represented falsely or without a reasonable basis that securities would be publicly traded, would be purchased by institutional investors in the aftermarket, and would increase in value substantially. The findings also stated that Harris omitted to disclose material facts concerning the issuer's operating history and financial condition. (NASD Case #C10010166)

**John Joseph Kenny (CRD #2122478, Registered Principal, Hoboken, New Jersey)** submitted an Offer of Settlement in which he was barred from association

with any NASD member in any capacity. Without admitting or denying the allegations, Kenny consented to the entry of findings that he executed a transaction in the joint account of public customers without the customers' prior knowledge, authorization, or consent. The findings also stated that Kenny failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10010158)

**Troy Adam Koubek (CRD #2575692, Registered Representative, Howard Beach, New York)** was barred from association with any NASD member in any capacity and ordered to pay \$17,000, plus interest, in restitution to a public customer. The sanctions were based on findings that Koubek engaged in private securities transactions and failed to provide prior written notice of the transactions to his member firm. The findings also stated that Koubek failed to respond to NASD requests for information and to appear for an on-the-record record. (NASD Case #C10010114)

**Salvatore Paul Liggieri (CRD #850269, Registered Principal, Garden City, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Liggieri consented to the described sanction and to the entry of findings that he entered into a settlement agreement with a public customer to compensate the customer for trading losses without informing or obtaining authorization from his member firm. The findings also stated that Liggieri entered into a revised settlement agreement with the customer, increasing the amount of compensation owed to the customer, without informing or obtaining authorization from his member firm. NASD found that Liggieri entered into a settlement agreement with a public customer and made settlement payments to a public customer totaling \$52,000 without informing or obtaining authorization from his member firm. In addition, the findings stated that Liggieri entered into an agreement with a public customer to recompense the customer for trading losses, secured over \$200,000 in payments to the customer, and signed a promissory note in which he assumed a \$122,500 debt owed by the customer without informing or obtaining authorization from his firm. In order to secure the payments from the customers, Liggieri intentionally or recklessly misrepresented the nature of the payments to the customers by stating that the customer managed a hedge fund into which their funds would be invested;

this action constituted a material misrepresentation or omission of facts because Liggieri knew, or should have known, that the former customer did not manage a hedge fund and did not intend to invest the funds as alleged. Moreover, NASD found that Liggieri engaged in private securities transactions and failed to provide prior written notification to, or obtain written authorization from, his member firm. (**NASD Case #C10020049**)

**John Michael Palermo (CRD #2156479, Registered Principal, Holbrook, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for three months. In light of the financial status of Palermo, a fine of \$2,500 has been imposed. Without admitting or denying the allegations, Palermo consented to the described sanctions and to the entry of findings that, while associated with a member firm, he contacted a prospective customer of the firm and recommended that he purchase securities in a transaction away from the firm, and failed to provide written notification to his member firm prior to the prospective customer transmitting funds away from the firm to effect the purchase.

Palermo's suspension began June 3, 2002, and will conclude at the close of business September 2, 2002. (**NASD Case #C10020047**)

**John Thomas Pisapia (CRD #2336216, Registered Principal, Staten Island, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in a principal capacity for 20 business days. Without admitting or denying the allegations, Pisapia consented to the described sanctions and to the entry of findings that he failed to establish, maintain, and enforce adequate written supervisory procedures in that he failed to designate an appropriately registered person to supervise the activities of a registered representative. The findings also stated that Pisapia failed to establish, maintain, and enforce adequate written supervisory procedures for monitoring compliance with the Regulatory Element of NASD's Continuing Education Program. NASD also found that the firm's written supervisory procedures failed to address adequately advertising, registration of personnel, recordkeeping, SEC Rule 21(a) issues, order execution rules, trade reporting, and dates when supervisory responsibility became effective. In addition,

NASD found that Pisapia permitted individuals associated with his member firm to act as registered individuals while their registration status with NASD was inactive due to their failure to complete the Regulatory Element of NASD's Continuing Education Requirement.

Pisapia's suspension began June 17, 2002, and will conclude at the close of business July 15, 2002. (**NASD Case #C10020048**)

**Howard William Schwartz (CRD #2706982, Registered Representative, Rego Park, New York)** was named as a respondent in an NASD complaint alleging that, in connection with the purchase or sale of a security, Schwartz, through means or instrumentalities of interstate commerce or of the mails, knowingly or recklessly employed a device, scheme, contrivance or artifice to defraud a public customer; made an untrue statement of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices, or courses of business that operated as a fraud or deceit upon the public customer. The complaint also alleges that Schwartz executed, or caused to be executed, transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint further alleges that Schwartz failed to provide an accurate, non-deceptive, and/or complete response to an NASD request for information. (**NASD Case #C10020052**)

**Richard Shane (CRD #419822, Registered Representative, Old Brookville, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Shane consented to the described sanction and to the entry of findings that he engaged in business activities outside the scope of his relationship with his member firm, for compensation, and failed to provide prompt written notice to his member firm concerning his activities. The findings also stated that Shane failed to respond to an NASD request to appear for an on-the-record interview. (**NASD Case #CLI020002**)

**Stanley Walker (CRD #2601447, Registered Representative, Crestwood, New York)** was named as a respondent in an NASD complaint alleging that he converted approximately \$35,500 in funds of a public customer in that he effected the transfer of funds from

the customer's checking account to his own checking account for his own use and benefit without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Walker failed to respond to NASD requests for information. (**NASD Case #C10020050**)

#### **August Actions**

**Alexander, Wescott, & Co., Inc. (CRD #35935, Utica, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$5,000, jointly and severally. The firm was also fined an additional \$5,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to the Automated Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) transactions in non-NASDAQ and NASDAQ SmallCap<sup>SM</sup> securities effected by the firm, and failed to record the time of execution or cancellations on sales memoranda for transactions effected by the firm. The findings also stated that the firm, acting through an individual, conducted a securities business while failing to maintain the minimum required net capital. (**NASD Case #C10020056**)

**Matthew James Gervasio (CRD #2844164, Registered Representative, West Islip, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Gervasio received checks and silver bars from public customers for deposit in their accounts and in a safe deposit box, respectively, at his member firm. The findings stated that Gervasio converted the checks and bars to his personal use and benefit without the authorization of the customers. NASD also found that Gervasio failed to respond to NASD requests for information. (**NASD Case #C10010157**)

**Foster J. Gibbons (CRD #2766670, Registered Principal, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gibbons consented to the described sanction and to the entry of findings that a member firm, acting through Gibbons, failed to implement, maintain, and enforce a reasonable supervisory system that would have enabled the firm to comply effectively with NASD rules and federal securities laws and regulations by preventing and detecting violations by the firm regarding

unauthorized transactions in the accounts of public customers; churning of accounts of public customers; and charging unreasonable, unfair, and excessive commissions in transactions effected on behalf of public customers. (**NASD Case #C10020057**)

**Ladenburg Capital Management f/k/a GBI Capital Partners, Inc. (CRD #14623, Bethpage, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it used confidentiality clauses in written settlement agreements with public customers that contained language that may have impeded NASD investigations and NASD's prosecution of disciplinary actions. The findings also stated that the firm's sales personnel engaged in improper telemarketing practices in an effort to induce public customers to establish accounts with the firm including harassment, intimidation, and indecorous language. (**NASD Case #C10020055**)

**Christopher Thomas Votta (CRD #2760656, Registered Representative, Ronkonkoma, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,222.50, including disgorgement of \$222.50 in commissions, and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Votta consented to the described sanctions and to the entry of findings that he effected an unauthorized sale transaction in the account of a public customer without the customer's prior knowledge, authorization, or consent.

Votta's suspension began July 15, 2002, and concluded at the close of business July 26, 2002. (**NASD Case #C10020053**)

#### **September Actions**

**Michael Baldo a/k/a Miguel Baldo Lozano (CRD #2620455, Registered Representative, Long Island City, New York)** was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in the accounts of public customers without their prior knowledge, authorization, or consent. (**NASD Case #C10020062**)

**Mathieu Siddhartha Chamberlain (CRD #2292343, Registered Representative, New York, New York)** was named a respondent in an NASD complaint alleging that he opened an account at his member firm in the name of a public customer and executed the purchase of stocks without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Chamberlain exercised discretion in the accounts of public customers pursuant to a customer's verbal authorization without consulting the customer before each transaction, without having obtained prior written authorization from the customer, and without having obtained his member firm's prior written acceptance of the account as discretionary. In addition, the complaint alleges that Chamberlain exceeded his authority in the accounts of public customers and executed the sale of stocks without the customers' knowledge, authorization, or consent. (**NASD Case #C10020067**)

**Mario Andretti Chotoosingh (CRD #4315338, Registered Representative, Freeport, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. Chotoosingh must pay the fine immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Chotoosingh consented to the described sanctions and to the entry of findings that he failed to disclose material facts on a Uniform Application for Securities Industry Registration or Transfer Form (Form U-4).

Chotoosingh's suspension began August 19, 2002, and will conclude at the close of business October 17, 2002. (**NASD Case #C10020065**)

**EarlyBirdCapital, Inc. (CRD #28629, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$19,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted individuals to engage in activities that required a general securities principal registration when they did not hold such registration. The findings stated that the firm used a bank account owned by an affiliated broker/dealer to hold investors' funds in connection with a private placement of securities. NASD also found that the firm failed to establish a special reserve account in connection with a private placement of securities, failed to make three weekly reserve calculations, and

failed to inform the SEC and NASD that it had not made required deposits to the reserve account on three occasions. In addition, the findings stated that the firm received and held customer funds in connection with a private placement in contravention of its membership agreement, and received checks from investors in connection with the private placement but failed to establish and maintain a checks-received-and-delivered blotter. Moreover, NASD found that the firm permitted an individual to act in a registered capacity when his registration status was inactive due to his failure to comply with the Regulatory Element of NASD's Continuing Education requirements. (**NASD Case #C10020070**)

**Todd Mitchell Eberhard (CRD #1636538, Registered Principal, New York, New York)** was named as a respondent in an NASD complaint alleging that he settled customer complaints away from his member firm without the knowledge and consent of the firm and failed to report settlements in excess of \$15,000 to his member firm. The complaint also alleges that Eberhard included improper confidentiality provisions in settlement agreements with public customers that effectively prohibited the customers from disclosing the underlying facts of their complaints and the settlement terms to NASD. The complaint further alleges that Eberhard willfully failed to disclose and/or misrepresent, amend, and timely amend his Forms U-4 to disclose material information. In addition, the complaint alleges that Eberhard effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The complaint further alleges that Eberhard exercised discretion in the accounts of public customers without having written agreements with the customers authorizing Eberhard to exercise discretion and without having obtained his member firm's prior written acceptance of the accounts as discretionary.

The NASD complaint also alleges that Eberhard, in connection with the purchase, sale, and/or offer of mutual fund shares, directly or indirectly, by the use of any means or instrumentalities of interstate commerce or the mails, or of any facility of any national securities exchange, employed artifices, devices, or schemes to defraud; made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; engaged in acts, practices, or courses of business that operated or would operate as a fraud or

deceit; and/or effected transactions in, or induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices or contrivances. Moreover, the complaint alleges that Eberhard failed to disclose material information to public customers in connection with the purchase and sales of mutual funds, purchased mutual fund shares that deprived the customers of volume discounts available, and/or deprived the customers of the lower and shorter-term contingent deferred sales charges that had the effect of increasing Eberhard's commission revenue. The complaint also alleges that Eberhard employed a pattern of short-term trading of mutual funds and effected transactions in the accounts of public customers without having reasonable grounds for believing the transactions were suitable for the customers on the basis of their financial situations and needs. Furthermore, the complaint alleges that Eberhard intentionally created false account statements with inflated valuations to induce a public customer to maintain accounts with him. In addition, the complaint alleges that Eberhard provided false, misleading and/or evasive testimony during an on-the-record interview with NASD. (NASD Case #C10020072)

**Glenn Michael Financial, Inc. (CRD #37912, Melville, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$13,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to the Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) the correct symbol indicating whether it executed transactions in eligible securities in a principal, riskless principal, or agency capacity. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning trade reporting. (NASD Case #CLI020004)

**Joseph Dillon & Company, Inc. (CRD #35220, Great Neck, New York) and Steven Richard Jaloza (CRD #1320831, Registered Principal, Oyster Bay, New York)** submitted an Offer of Settlement in which they were censured and fined \$35,000, jointly and severally. Jaloza was also suspended from association with any NASD member in any principal capacity for two months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they failed to comply with the provisions of the NASD Taping Rule in that they failed to implement a tape recording system for

telephone calls and failed to establish, maintain, or enforce special written procedures for supervising telemarketing activities of the firm's registered representatives. The findings also stated that the firm and Jaloza failed to submit to NASD a quarterly written report concerning the firm's supervision of the telemarketing activities of its registered representatives.

Jaloza's suspension began July 2, 2001, and concluded September 1, 2001. (NASD Case #C10000172)

**Igor Krishtul (CRD #2011198, Registered Representative, Brooklyn, New York)** submitted an Offer of Settlement in which he was fined \$27,500 and suspended from association with any NASD member in any capacity for two years. Krishtul must pay the fine immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Krishtul consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prompt written notice to his member firm. The findings also stated that Krishtul provided false, misleading, and/or evasive testimony during an on-the-record interview with NASD.

Krishtul's suspension began August 19, 2002, and will conclude at the close of business August 18, 2004. (NASD Case #C10020017)

**Legend Merchant Group, Inc. (CRD #5155, New York, New York) and Michael Davidson (CRD #2271320, Registered Principal, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000, jointly and severally, with Davidson. Davidson was also suspended from association with any NASD member as a financial and operations principal (FINOP) for 10 business days and required to requalify by exam as a FINOP within 90 days. If Davidson fails to requalify as a FINOP within 90 days, he will be suspended from acting in such capacity until he successfully completes the exam. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Davidson, failed to maintain the minimum required net capital while conducting a securities business. The findings also stated that the firm, acting through Davidson, incorrectly reported its net capital in its monthly Financial and Operational Combined Uniform Single (FOCUS) reports.

Davidson's suspension began September 3, 2002, and concluded at the close of business September 16, 2002. (**NASD Case #C10020068**)

**David Vyacheslav Polushkin (CRD #2557710, Registered Representative, Brooklyn, New York)** submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for three months. In light of the financial status of Polushkin, no monetary sanctions have been imposed. Without admitting or denying the allegations, Polushkin consented to the described sanction and to the entry of findings that he effected purchase transactions in the joint account of public customers without their prior knowledge, authorization, or consent.

Polushkin's suspension began August 5, 2002, and will conclude at the close of business November 4, 2002. (**NASD Case #C10020018**)

**Sean Michael Sanborn (CRD #2900360, Registered Representative, Staten Island, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for nine months. Sanborn must pay the fine immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sanborn consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U-4.

Sanborn's suspension began August 19, 2002, and will conclude on May 18, 2003. (**NASD Case #C10020051**)

**William Scott & Co., LLC (CRD #14979, Union, New Jersey), Joseph William Glodek, Sr. (CRD #223163, Registered Principal, Somerset, New Jersey), and Joseph Scott Glodek, Jr. (CRD #2024287, Registered Principal, Roseland, New Jersey)** submitted an Offer of Settlement in which the firm was censured and fined \$10,000. The firm also will not be permitted to underwrite any initial public offerings (IPOS) of any equity securities for any "Developmental Stage Company" as defined in Regulation S-X, Rule 1-02(h); make a market in any publicly traded security; and/or offer for sale to public customers any securities of the firm or its holding company for three years. The firm will also hire, within 60 days, an independent

consultant to review and revise its supervisory and compliance procedures and systems, and provide a copy of the consultant's recommendations to NASD's Department of Enforcement not later than six months after the consultant's retention by the firm. The Glodeks were individually fined \$10,000, required to requalify as general securities principals before again acting in that capacity with any NASD member, and required to pay \$82,301.92, plus interest, in restitution to public customers, jointly and severally. Glodek, Sr. was suspended from association with any NASD member in any capacity for six months. Glodek, Jr. was suspended from association with any NASD member in any capacity for 45 days, and suspended from association with any NASD member in any principal capacity for one year.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through associated persons, directly or indirectly, by the use of any means or instrumentalities of interstate commerce or the mails, or of any facility of any national securities exchange employed artifices, devices, or schemes to defraud; made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit; effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances; and failed to observe high standards of commercial honor and just and equitable principles of trade. The firm, acting through the Glodeks and others, engaged in acts and practices in connection with the accounts of public customers including, but not limited to, the use of high-pressure telephone sales pitches to sell low-priced, speculative securities; the use of baseless price and performance predictions; the use of material, false, misleading, and inaccurate representations; the failure to disclose material information in connection with the solicitation of purchases in certain securities; the effecting of unauthorized transactions in the accounts of public customers; and the failure or refusal to sell securities from the accounts of customers despite customer instructions to do so.

The findings also stated that the firm, acting through the Glodeks, failed to implement, maintain, and enforce effective supervisory systems and procedures

that would have enabled the firm to comply with federal securities laws and NASD rules regarding underwriting and retail brokerage activities and the qualifications of, and registration process for, associated persons. In addition, NASD found that the firm, acting through the Glodeks, knew, or should have known, of "red flags" indicating sales-practice violations, including the firm's receipt of numerous customer complaints alleging material misrepresentations, its failure to disclose material information, its effecting of unauthorized transactions, and its failure to take sufficient supervisory steps in response to the "red flags." NASD also found that the firm failed to establish, maintain, and enforce written procedures that would have enabled the firm to prevent and detect the conduct alleged in the customer complaints.

Glodek, Sr.'s suspension will begin October 18, 2002, and will conclude at the close of business April 17, 2003. Glodek, Jr.'s suspension in any capacity began September 3, 2002, and will conclude at the close of business October 17, 2002. Glodek, Jr.'s suspension in any principal capacity will begin October 18, 2002, and will conclude at the close of business October 17, 2003. (**NASD Case #C10010004**)

**Henry Shin a/k/a Yoo Ho (CRD #3210557, Registered Representative, Levittown, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Shin effected unauthorized transactions in the account of a public customer and misrepresented to the customer that he would reimburse the customer for any losses resulting from a transaction. The findings also stated that Shin engaged in the solicitation and purchase or sale of call and put contracts for which NASD did not register him to do. NASD also found that Shin failed to respond to NASD requests for information. (**NASD Case #C10020027**)

**Frederick Joseph Smilek (CRD #3133710, Associated Person, Tuckahoe, New York)** submitted an Offer of Settlement in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for four months. Smilek must pay the fine immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Smilek consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U-4.

Smilek's suspension began August 19, 2002, and will conclude at the close of business December 18, 2002. (**NASD Case #C10010145**)

**John Valentino Tito (CRD #3215150, Associated Person, Brooklyn, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Tito provided a false response on his Form U-4. The findings also stated that Tito failed to respond to NASD requests for information.

Tito has appealed this decision to the NAC, and the sanction is not in effect pending consideration of the appeal. (**NASD Case #C10010146**)

District 11 Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and New York (except for the counties of Livingston, Monroe, and Steuben; the five boroughs of New York City; and Long Island)

#### July Actions

**Brian Michael Hunter (CRD #1002251, Registered Representative, Lincoln, Rhode Island)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, and required to disgorge \$12,750 of the commissions he received and pay partial restitution, plus interest, to public customers. The fine and restitution amounts must be paid before Hunter reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hunter consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, for compensation, without prior written notice to, or written approval from, his member firm.

Hunter's suspension began July 1, 2002, and will conclude at the close of business July 30, 2002. (**NASD Case #C11020023**)

**Brian Timothy Rice (CRD #3019174, Registered Representative, Niskayuna, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rice consented to the described sanction and to the entry of findings that he misappropriated to

his own use and benefit, insurance premium payments totaling approximately \$2,600 received from insurance clients. (**NASD Case #C11020022**)

#### **August Actions**

**Roland Raymond Gaboury (CRD #1284789, Registered Representative, West Brookfield, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gaboury consented to the described sanction and to the entry of findings that a public customer provided him with \$20,000 to invest in a high-yield account that Gaboury said would provide a fixed rate of return, failed to invest the customer's funds as directed, and, instead, misused the funds by purchasing for the customer a security offered by a friend. The findings also stated that Gaboury engaged in a private securities transaction without prior written notice to, or approval from, his member firm. NASD found that Gaboury created and sent fictitious account statements to the public customer that falsely indicated that the \$20,000 investment, plus accrued interest, was located in a firm account. In addition, NASD found that Gaboury had learned that the outside investment was a fraud and that someone had absconded with the customer's funds, but instead of informing the customer, Gaboury continued to create and send fictitious reports falsely indicating that the investment was at the firm and continuing to accrue interest. Moreover, NASD found that Gaboury created and provided to the customer a letter on firm stationery showing a fictitious policy number and account value for the customer's \$20,000 investment and forged a firm employee's signature on this document. (**NASD Case #C11020025**)

**Jeffrey Henry Massey (CRD #2395900, Registered Representative, Cumberland, Rhode Island)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for nine months and required to disgorge \$20,000 in partial restitution to public customers. Restitution must be paid before Massey reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. In light of the financial status of Massey, no monetary sanction has been imposed. Without admitting or denying the allegations, Massey consented to the described sanctions and to the entry of findings that he engaged in private securities

transactions without prior written notice to, or approval from, his member firm.

Massey's suspension began July 15, 2002, and will conclude at the close of business April 14, 2003. (**NASD Case #C11020026**)

**Howard Charles Penn (CRD #811882, Registered Principal, Briarcliff Manor, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500, suspended from association with any NASD member in any capacity for 10 business days, and required to disgorge \$6,270 in commissions received in partial restitution to a public customer. The restitution must be paid before Penn reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Penn consented to the described sanctions and to the entry of findings that he recommended and purchased limited partnership interests in businesses totaling approximately \$100,000 for a public customer without reasonable grounds for believing that these recommendations and resultant transactions were suitable for the customer on the basis of the customer's financial situation, investment objectives, and needs.

Penn's suspension began August 5, 2002, and will conclude at the close of business August 16, 2002. (**NASD Case #C11020027**)

#### **September Actions**

**Cantella & Co., Inc. (CRD #13905, Boston, Massachusetts) and James Michael Freeman (CRD #1501323, Registered Principal, Newburyport, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Freeman, failed to establish and maintain a system to supervise the activities of each registered representative and associated person that was reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. (**NASD Case #C11020029**)

**Eric Anthony Eunis (CRD #2389961, Registered Representative, East Greenwich, Rhode Island)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from

association with any member firm in any capacity for three months, required to disgorge \$18,100 in commissions received, and required to pay partial restitution, plus interest, to public customers. The fine and restitution must be paid before Eunis reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Eunis consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Eunis' suspension began September 3, 2002, and will conclude at the close December 2, 2002. (**NASD Case #C11020030**)

**Melissa Jane Thomas (CRD #4410492, Registered Representative, Newington, Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Thomas consented to the described sanction and to the entry of findings that she deposited a public customer's \$150 check into her personal checking account and converted those funds for her own use and benefit without the customer's knowledge or consent. (**NASD Case #C11020031**)

## Enforcement Department

### July Actions

**Dane Stephen Faber (CRD #1020637, Registered Principal, Sausalito, California)** was fined \$35,000, suspended from association with any NASD member in any capacity for one year, and ordered to pay restitution of \$134,435, plus interest, to public customers. The sanctions were based on findings that Faber, while soliciting public customers to purchase common stock, made material misrepresentations that the stock was being sold pursuant to an IPO; made baseless price predictions and generalized assurances of success regarding the stock; and failed fully to disclose the speculative nature of the security. The findings also stated that Faber made recommendations to a public customer that were unsuitable for her stated investment objectives.

Faber has appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. (**NASD Case #CAF010009**)

**Josephthal & Co., Inc. (CRD #3227, New York, New York)** was censured and fined \$10,000. The NAC imposed the sanctions following appeal of an Officer of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm failed to comply with an arbitration panel's order to produce a document for the arbitration panel to review. (**NASD Case #CAF000015**)

**Monty Reasor Myler (CRD #1922281, Registered Representative, Palm Beach Gardens, Florida)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity; ordered to pay \$56,120, plus interest, in restitution to public customers; and ordered to pay a public customer the arbitration award granted to him in the sum of \$15,005, plus interest. The restitution amounts and the arbitration award must be paid, or proof provided that the arbitration award has been settled, immediately upon Myler's reassociation with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Myler consented to the described sanctions and to the entry of findings that he recommended to public customers the purchase of shares of stock—falsely representing that the shares could be purchased through an IPO—and predicted the price of the stock would increase substantially without any reasonable basis for the prediction. The findings also stated that Myler failed to disclose the speculative nature of the stock, including the fact that it had generated no revenue and had lost approximately \$200,000 since its inception. In addition, NASD found that Myler failed to pay an arbitration award to a public customer. (**NASD Case #CAF010024**)

**Howard Richard Perles (CRD #1174341, Registered Principal, Staten Island, New York) and Laurence Mark Geller (CRD #1533947, Registered Representative, Demarest, New Jersey)** were fined \$25,000 each and required to requalify as general securities representatives. Perles was suspended from association with any NASD member in any capacity for one year and Geller was suspended from association with any NASD member in any capacity for 30 business days. The Securities and Exchange Commission (SEC) imposed the sanctions following appeal of a NAC decision. The sanctions were based on findings that Perles and Geller aided and abetted another member firm in the fraudulent manipulation of a NASDAQ-listed common stock by engaging in prearranged, matched trading with the firm. The findings also stated that Perles and

Geller failed to reflect accurately the prearranged trades on the books and records of their member firms.

Perle's suspension began July 1, 2002, and will conclude at the close of business on June 30, 2003. Geller's suspension began July 1, 2002, and will conclude at the close of business on August 12, 2002. (**NASD Case #CAF980005**)

**Michael Gerard Rogan (CRD #1503029, Registered Principal, Clearwater, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, jointly and severally, and suspended from association with any NASD member in any principal capacity for 30 days. In light of the financial status of Rogan, a \$5,000 fine was imposed. Without admitting or denying the allegations, Rogan consented to the described sanctions and to the entry of findings that a member firm, acting through Rogan, failed to establish and maintain a supervisory system reasonably designed to achieve compliance with federal securities laws, regulations, and NASD rules. The findings also stated that Rogan failed to reasonably supervise an associated person's activities on behalf of his member firm. NASD also found that Rogan failed to take steps to investigate the person's conduct and insure that his actions complied with applicable securities laws and NASD rules despite receiving notice that the person was acting improperly as a registered principal.

Rogan's suspension began June 17, 2002, and will conclude at the close of business July 16, 2002. (**NASD Case #CAF020017**)

#### **August Actions**

**Scott Michael Brown (CRD #2642492, Registered Representative, San Francisco, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$30,000 and suspended from association with any NASD member in any capacity for 12 months. The fine must be paid before Brown reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Brown further agrees to provide additional testimony to NASD and to appear personally and testify truthfully and completely in connection with its investigation or any disciplinary hearing conducted in connection with the investigation. If Brown fails to appear or to testify truthfully and completely, he consents to a sanction including a bar from the securities industry. Without admitting or denying the allegations, Brown consented

to the described sanctions and to the entry of findings that he failed to respond to NASD requests to provide on-the-record testimony.

Brown's suspension began April 1, 2002, and will conclude at the close of business March 31, 2003. (**NASD Case #CAF020010**)

**Victor Kozirovsky (CRD #2841043, Registered Representative, Woodmere, New York)** submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for four months. In light of the financial status of Kozirovsky, no monetary sanctions have been imposed. Without admitting or denying the allegations, Kozirovsky consented to the described sanction and to the entry of findings that he caused purchases of stock during the initial public offering of a security for persons who had not agreed to purchase stock or to open accounts with his member firm.

Kozirovsky's suspension began July 15, 2002, and will conclude at the close of business November 14, 2002. (**NASD Case #CAF020004**)

**Robert David Luecke (CRD #1999585, Registered Principal, Bellevue, Washington)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Luecke consented to the described sanctions and to the entry of findings that broker/dealers he owned and operated posted misleading information on Web sites and made claims and comparisons that were unwarranted, exaggerated, and without support. The findings also stated that Luecke, through a Web site, promoted day trading without sufficiently disclosing the risks of that type of trading strategy, and discussed after-hours trading without sufficiently disclosing the risks of after-hours trading.

Luecke's suspension began July 15, 2002, and concluded on July 28, 2002; it will begin again August 19, 2002, and conclude at the close of business September 3, 2002. (**NASD Case #CAF020019**)

**Taglich Brothers, Inc. (CRD #29102, New York, New York) and Michael Nicholas Taglich (CRD #1343730, Registered Principal, Sag Harbor, New York)** submitted an Offer of Settlement in which they were censured and fined \$35,000, jointly and severally. In addition, the

firm was fined an additional \$5,000 and Taglich was required to requalify by exam as a general securities principal (Series 24) within 90 days of issuance of the Order Accepting the Offer of Settlement. If Taglich fails to requalify, he will be prohibited from serving in a principal capacity with any firm until he successfully requalifies. Without admitting or denying the allegations, the firm and Taglich consented to the described sanctions and to the entry of findings that they failed to disclose to public customers that they had an arrangement whereby the firm's clearing firm would make markets in securities requested by the firm and then pay the firm a portion of the clearing firm's spread earned on some, but not all, trades executed by the clearing firm in these securities. The findings stated that the amount of the spread—which was not disclosed to customers on confirmations—would be split between the firm and the registered representative generating the trade who also received a regular commission. In addition, the firm failed to correct the confirmation slips to reflect the additional compensation, and the confirmations failed to state clearly whether the firm or the clearing firm was acting in a principal or agency capacity. NASD also found that the firm failed to detect and correct this ambiguity on confirmation slips for these trades. Moreover, NASD found that the firm failed to create and maintain order tickets that reflected the times the orders were received and executed. (NASD Case #CAF010028)

#### September Actions

**Manuel Martin Bello (CRD #1557140, Registered Principal, Kinnelon, New Jersey)** was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanction following the review of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Bello failed to produce bank records in response to NASD requests for documents, and failed to produce certain bank account statements in a timely manner in response to NASD requests for documents. (NASD Case #CAF000030)

**Cybervest Securities, Inc. (CRD #40767, Ft. Lauderdale, Florida), William Pang Chien (CRD #2251029, Registered Principal, Plantation, Florida), Michael Chien (CRD #3066470, Registered Principal, Sunrise, Florida), and Scott Keith Kaplan (CRD #2908394, Registered Representative, Brooklyn, New York)** were named as respondents in an NASD complaint alleging that the firm, William Chien, Michael Chien, and Kaplan

engaged in an unregistered distribution of common stock. The complaint also alleges that the firm, acting through the Chiens, by use of the instrumentalities of interstate commerce or the mails, intentionally or recklessly employed devices to defraud public customers by making untrue statements of material facts or omitting to state material facts necessary to make the statements, in light of the circumstances in which they were made, not misleading. Specifically, the complaint alleges that the firm, at the direction of the Chiens, provided to public customers an overview and/or private placement memorandum that contained material misrepresentations and omissions of facts. In addition, the complaint alleges that Kaplan, in connection with the sale of common stock, by use of the instrumentalities of interstate commerce or the mails, intentionally or recklessly employed devices to defraud public customers by making untrue statements of material facts or omitting to state material facts necessary to make the statements, in light of the circumstances in which they were made, not misleading. Specifically, the complaint alleges that Kaplan told public customers that they were directly or indirectly buying shares of NASDAQ; that NASDAQ was going to engage in an IPO within a short period of time; and failed to disclose the conflicts of interest between the common stock and his member firm, the lack of secondary market for the stock, the limited operating history of many of the target companies, and specific industry risk factors for the target companies. In addition, the complaint alleges that Kaplan made price predictions to customers without a reasonable basis. Moreover, the complaint alleges that Michael Chien failed to properly qualify and register as a general principal, and the firm and William Chien delegated to Michael Chien supervisory responsibilities for a branch office when he was not qualified or registered as a general principal.

Furthermore, the complaint alleges that the firm allowed Kaplan to conduct a securities business that required registration when he was not registered and permitted a statutorily disqualified individual to associate with the firm and work in a branch office and the firm's main office. The complaint also alleges that the firm, acting through William Chien, failed to establish, maintain, and enforce written supervisory procedures and systems to supervise the activities of registered representatives and associated persons reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. In addition, the complaint alleges that Michael Chien

became aware of "red flags" indicating that salespersons might have been misrepresenting a stock offering and failed to take adequate steps to investigate whether salespersons were engaging in sales practice violations. The complaint also alleges that the firm allowed a branch office supervisor to fail to take steps to supervise the sales practices of registered persons at the branch office. Furthermore, the complaint alleges that the Chiens failed to maintain a file or records of Web sites for the firm and the common stock that included the persons who prepared and approved of their use, the dates the Web sites were activated, and the dates the Web sites were materially revised. (NASD Case #CAF020024)

**Stephen Jay Drescher (CRD #2619465, Registered Principal, Remsenburg, New York)** was named as a respondent in an NASD complaint alleging that he agreed in advance to artificially manipulate the market price and demand for securities involved in IPOs as soon as aftermarket trading began by engaging in unlawful schemes designed to allow others, including other brokerage firms, and his member firm to profit from aftermarket sales of securities in the IPOs while concealing their beneficial ownership and control over substantial quantities of such securities. The complaint also alleges that Drescher and others entered into secret, undisclosed arrangements, including sham "lock-up" agreements and undisclosed agreements, to purchase securities from bridge lenders and other insiders affiliated with the issuers, which allowed his member firm and others to obtain substantial quantities of securities at below-market prices once aftermarket trading began.

The complaint further alleges that Drescher and his co-conspirators, directly or indirectly, by the use of any means or instrumentalities of interstate commerce or the mails, or of any facility of any national securities exchange, employed artifices, devices, or schemes to defraud; made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit upon persons in connection with the purchase of securities. Moreover, the complaint alleges that Drescher and others unlawfully, willfully, and knowingly devised and intended to devise a scheme and artifice to defraud; and, to obtain money and property by means of false and fraudulent pretenses, representations, and

promises, would and did transmit by means of wire communication in interstate and foreign commerce, signs, signals, and sounds. (NASD Case #CAF020029)

**John F. Keegan (CRD #2125338, Registered Principal, Duluth, Georgia)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$30,000, suspended from association with any NASD member in any capacity for 15 days, and suspended from association with any NASD member in a principal or supervisory capacity for 80 days. Keegan must pay the fine immediately upon reassociation with any NASD member following the suspensions or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Keegan consented to the entry of findings that, as his member firm's chief compliance officer, he failed to obtain supervisory review and approval of advertising and sales literature (ASL), and failed to file pieces of ASL with NASD's Advertising Regulation Department, as required, before they were distributed to the public. The findings also stated that Keegan failed to adequately supervise his member firm's advertising activities, including the use of ASL that omitted material facts, and the use of ASL containing exaggerations and unwarranted and misleading statements. NASD found that Keegan was responsible for his member firm's failure to develop systems and procedures, including written supervisory procedures, reasonably designed to achieve compliance with NASD's advertising regulations regarding review of ASL. Keegan was also found responsible for his firm's failure to establish procedures reasonably designed to achieve compliance with NASD rules regarding unlicensed persons illegally discussing or recommending securities products to potential customers.

Keegan's suspension in any capacity will begin December 13, 2002, and will conclude December 27, 2002. Keegan's suspension in any principal or supervisory capacity will begin December 30, 2002, and will conclude at the close of business March 19, 2003. (NASD Case #CAF020025)

**Michael Miola (CRD #1255741, Registered Representative, Upper Brookville, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000, including disgorgement of \$4,565.43, and suspended from association with any NASD member in any capacity for 30 days. Miola must pay the fine before reassociating with any NASD member following the suspension or before requesting

relief from any statutory disqualification. Without admitting or denying the allegations, Miola consented to the described sanctions and to the entry of findings that he submitted advertisements to NASD that were materially misleading and failed to disclose the risks inherent in investing in the technology and sciences area; failed to disclose that a fund was a non-diversified fund; and failed to disclose that the fund had an undue concentration in a limited number of securities. The findings also stated that Miola failed to obtain approval from a registered principal of the firm prior to submitting the ads to NASD. In addition, the findings stated that Miola acted as a general securities principal and general securities representative without proper registration.

Miola's suspension began March 4, 2002, and concluded at the close of business April 2, 2002. (NASD Case #CAF020002)

**Hao D. Nguyen (CRD #2458736, Registered Representative, Houston, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, Nguyen consented to the described sanctions and to the entry of findings that he paid advances on escrowed commissions to unregistered persons and encouraged unlicensed persons to engage in conduct requiring registration.

Nguyen's suspension began August 5, 2002, and will conclude at the close of business October 3, 2002. (NASD Case #CAF020021)

**Timothy John Ryan (CRD #1245453, Registered Principal, Kingston, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Ryan effected four unauthorized transactions in two institutional customer accounts without their approval or consent. The findings also stated that Ryan opened an account for one of the two institutional customers at his member firm without the knowledge or consent of the managing director of the advisor to the institutional customer.

Ryan has appealed this decision to the NAC, and the sanction is not in effect pending consideration of the appeal. (NASD Case #CAF010013)

**Terra Nova Trading, L.L.C. (CRD #37761, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it published and distributed advertisements and pieces of sales literature that were exaggerated, unwarranted, or misleading. The findings also stated that the firm's advertising and sales literature mischaracterized an SEC study and misleadingly suggested that public customers who executed trades through the firm would receive better prices than through most other market participants. (NASD Case #CAF010022)

## Market Regulation Department

### July Actions

**Brinson Advisors (CRD #583, Weehawken, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information to the Order Audit Trail System<sup>SM</sup> (OATS<sup>SM</sup>). The findings also stated that the firm failed to follow its written supervisory procedures concerning OATS and thus failed to maintain a system reasonably designed to achieve compliance with Marketplace Rule 6955(a). (NASD Case #CMS020098)

**Andy Cracchiolo (CRD #4233882, Associated Person, Phoenix, Arizona)** was named as a respondent in an NASD complaint alleging that he engaged in a course of conduct whereby he would enter a small buy (sell) order into an Electronic Communications Network (ECN) at a price that affected the national best bid (offer) for the purpose of facilitating the automatic execution of his larger sell (buy) order on the opposite side of the market at that price by a market maker that guaranteed that it would provide an execution at the inside market. The complaint also alleges that, by engaging in this manipulative scheme, Cracchiolo was able to buy (sell) shares of a security at a price that otherwise would not have been available in the market. (NASD Case #CMS020089)

**Richard Scott From (CRD #703869, Registered Principal, Roseville, California) and Frank Darnell Fisher, Jr. (CRD #2642052, Registered Representative, Vacaville, California)** were named as respondents in an NASD complaint alleging that they recommended and sold shares of securities to public customers and failed to disclose that they received a bonus in the form of a commission or sales credit on the security amounting to 33 percent of the retail sales price. The complaint also alleges that From and Fisher knew, or should have known, that such prices were excessive and unfair and represented material, financial self-interests in the security, the existence and magnitude of which was required to be disclosed to their customers. The complaint further alleges that From and Fisher, in their recommendations of penny stock purchases, failed to furnish customers, prior to effecting transactions, a risk disclosure document containing information required by the penny stock rules, and failed to obtain from customers a manually signed and dated written statement acknowledging receipt of such risk disclosure document prior to effecting customer transactions.

In addition, the complaint alleges that From and Fisher failed to disclose to their penny stock customers, either orally or in writing, the inside bid and offer quotations prior to effecting transactions, and failed to provide the same in writing at, or prior to, the time of any written confirmation sent to the customer. Furthermore, the complaint alleges that From and Fisher failed to disclose to customers, either orally or in writing, the aggregate amount of cash compensation received, or to be received, from any source in connection with the transaction prior to effecting such customer transactions, and failed to keep and preserve records of such disclosures as required by the penny stock rules. Moreover, the complaint alleges that From recommended the purchase of shares of another security to public customers and failed to disclose that he had entered into an agreement with the issuer to receive 120,000 shares of stock—representing a material, financial self-interest that was large enough to influence his recommendation of the security—thereby depriving his customers of material information needed to evaluate his recommendation of the security. (NASD Case #CMS020090)

**GFI Securities LLC (CRD #19982, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry

of findings that it failed, within 90 seconds after execution, to transmit through ACT last sale reports of transactions in OTC Equity/Bulletin Board (OTC/OTCBB) securities; incorrectly reported to ACT last sale reports of transactions in OTC/OTCBB on an “as of” basis; and failed to designate through ACT last sale reports as late. The findings also stated that the firm incorrectly designated as “.SLD” through ACT last sale reports of transactions in OTC/OTCBB securities reported to ACT within 90 seconds of execution. (NASD Case #CMS020092)

**Market Wise Securities, Inc. (CRD #45269, Broomfield, Colorado)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions in NASDAQ National Market® (NNM®) securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. The findings also stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning short sales. (NASD Case #CMS020088)

**Mesirow Financial, Inc. (CRD #2764, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise the firm’s written supervisory procedures regarding firm quotations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders presented to the firm at its published bid or offer in an amount up to its published quotation size, thereby failing to honor its published quotation. The findings also stated that the firm’s supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning firm quotations. (NASD Case #CMS020094)

**MPAC Capital Partners, L.P. (CRD #39136, Sausalito, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each such order was at a

price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security. (**NASD Case #CMS020087**)

**UBS Warburg LLC (CRD #7654, Stamford, Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$112,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it incorrectly designated as ".PRP" through ACT reports of transactions in NNM securities for which the execution price was not based on a prior reference point in time. The findings also stated that the firm failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security.

NASD also found that the firm, without making reasonable efforts to avoid a locked or crossed market, executed transactions with all market participants whose quotations would be locked or crossed, and entered bid or ask quotations in NASDAQ securities for which it was a market maker that caused a locked or crossed market condition to occur. In addition, NASD determined that the firm locked/crossed the market during the pre-opening market period in NASDAQ securities for which it was a market maker; failed immediately to send a Trade-or-Move Message through SelectNet® to the market participant whose quote it locked or crossed that was priced at the receiving market participant's quoted price; and/or failed to send a Trade-or-Move Message through SelectNet with an aggregate size of at least 5,000 shares to all market participants whose quotes it locked/crossed. Moreover, NASD found that the firm was a party to a locked or crossed market condition in NASDAQ securities for which it was a market maker prior to the market opening, and received a Trade-or-Move Message through SelectNet. But, within 30 seconds of receiving such message, the firm failed to fill the incoming message for the full size of the message or move its

bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. Furthermore, the findings stated that the firm was presented with orders at its published bid or offer in an amount up to its published quotation size, failed to execute the orders upon presentment, and thereby failed to honor its published quotation. (**NASD Case #CMS020055**)

#### **August Actions**

**C.E. Unterberg, Towbin (CRD #24790, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, it was a party to a locked or crossed market condition prior to the market opening; received a Trade-or-Move message in each instance through SelectNet®; and, within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. (**NASD Case #CMS020110**)

**Goldman, Sachs & Company (CRD #361, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered bid or asked quotations in the NASDAQ Stock Market that caused a locked or crossed market condition to occur in each instance. (**NASD Case #CMS020112**)

**HD Brous & Co., Inc. (CRD #22062, Great Neck, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to the Order Audit Trail System™ (OATS™) reports with respect to equity securities traded on the NASDAQ Stock Market that were not in the electronic form prescribed by NASD. The findings also stated that the firm failed to follow written supervisory procedures concerning OATS

and thus failed to maintain a system that was reasonably designed to achieve compliance with NASD Marketplace Rule 6955(a). (**NASD Case #CMS020108**)

**J. Alexander Securities, Inc. (CRD #7809, Los Angeles, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revise its written supervisory procedures within 30 business days of acceptance of the AWC by NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it published quotations for Over-the-Counter (OTC) equity securities, or directly or indirectly submitted such quotations for publication, in a quotation medium, and did not have in its records the documentation required by SEC Rule 15c2-11(a); did not have a reasonable basis under the circumstances for believing the information was accurate in all material respects or that the sources of the information were reliable; and failed to represent a customer's indication of unsolicited interest. The findings also stated that the firm failed to file a Form 211 with NASD at least three business days before the firm's quotations were published or displayed in a quotation medium. In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable rules and regulations concerning SEC Rule 15c2-11 and NASD Marketplace Rule 6740, including a statement of the steps to be taken to ensure compliance and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (**NASD Case #CMS020103**)

**J.B. Oxford & Company (CRD #14343, Beverly Hills, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$27,000, and required to pay \$1,018.75, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale orders in certain securities and failed to make an affirmative determination prior to executing the transactions. The findings also stated that the firm failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis change in relation to the size

associated with the firm's bid or offer in each such security. NASD also found that the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. In addition, NASD found that the firm improperly transmitted duplicate execution reports to OATS. (**NASD Case #CMS020101**)

**Lehman Brothers, Inc. (CRD #7506, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$23,000, and required to pay \$568.75, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, in transactions for or with a customer, to use reasonable diligence to ascertain the best inter-dealer market; failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions; and failed to execute an order fully and promptly. The findings also stated that the firm executed short sale orders in certain securities and failed to maintain a written record of the affirmative determination made for such orders; executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier; failed to disclose on customer confirmations that the disclosed price was an average price; and failed to reference on the required average price legend that details of the transactions would be provided upon request. NASD also found that the firm failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. (**NASD Case #CMS020113**)

**Needham & Company, Inc. (CRD #16360, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$67,500, and required to revise the firm's written supervisory procedures with respect to firm quotations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders presented to the firm at its published bid or offer in an amount up

to its published quotation size, thereby failing to honor its published quotations. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning firm quotations.

NASD found that the firm, as a market maker in securities, caused a locked/crossed market condition prior to the market opening by entering a bid (ask) quotation, that locked or crossed another market maker's quotations, without immediately sending through SelectNet to the market maker(s) whose quote(s) it locked or crossed a Trade-or-Move Message that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. In addition, the firm was a party to a locked or crossed market condition prior to the market opening, received a Trade-or-Move message in each instance through SelectNet, and, within 30 seconds of receiving such messages, failed to fill the incoming message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. Furthermore, NASD found that the firm failed to display immediately customer limit orders in NASDAQ securities in its published quotation when each such order was at a price that would have improved the firm's bid or offer in each securities, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security. (NASD Case #CMS020104)

**Pacific Growth Equities, Inc. (CRD #24835, San Francisco, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that orders were presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size, failed to execute the orders upon presentment, and thereby failed to honor its published quotation. (NASD Case #CMS020111)

**Pershing Trading Company, L.P. (CRD #36671, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the allegations, the firm consented to the described

sanctions and to the entry of findings that, as a market maker in securities, it caused a locked/crossed market condition prior to the market opening by entering a quotation that locked or crossed another market maker's quotations without immediately thereafter sending through SelectNet to the market maker(s) whose quotes it locked or crossed a Trade-or-Move Message that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. NASD found that the firm was a party to a locked or crossed market condition prior to the market opening, received a Trade-or-Move Message in each instance through SelectNet, and, within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move message for the full size of the message or move its quotation by an increment that would have unlocked or uncrossed the market. (NASD Case #CMS020102)

**Scott & Stringfellow, Inc. (CRD #6255, Richmond, Virginia)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to pay \$4,861.13, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, in transactions for or with a customer, to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. (NASD Case #CMS020106)

**Service Asset Management Company (CRD #47157, Austin, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, it was a party to a locked or crossed market condition prior to the market opening and received a Trade-or-Move Message in each instance through SelectNet, and, within 30 seconds of receiving such message, failed to fill the incoming Trade-or-Move Message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. (NASD Case #CMS020115)

**Trident Securities, Inc. (CRD #566, Cleveland, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and

required to revise the firm's written supervisory procedures with respect to firm quote rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute the orders presented to the firm at its published bid or offer in an amount up to its published quotation size upon presentment, and thereby failed to honor its published quotation. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities rules and regulations concerning firm quote compliance. (NASD Case #CMS020100)

#### **September Actions**

**BNY Clearing Services, LLC (CRD #15879, Milwaukee, Wisconsin)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported to the Order Audit Trail System<sup>SM</sup> (OATS<sup>SM</sup>) execution reports that contained inaccurate, incomplete, or improperly formatted data. The findings also stated that the firm, for certain orders received from its correspondents, failed to report all applicable order information required to be recorded under NASD Marketplace Rule 6954 to OATS. (NASD Case #CMS020135)

**Gerard Klauer Mattison & Co., Inc. (CRD #16686, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that as a registered market maker in securities listed on NASDAQ and in other securities traded in the over-the-counter (OTC) market, it failed to execute the orders in an amount up to its published quotation size upon presentment and thereby failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the firm quote rules. (NASD Case #CMS020128)

**Icapital Markets LLC (CRD #5209, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations,

the firm consented to the described sanctions and to the entry of findings that it entered a priced order into an electronic communication network (ECN) that was displayed in The NASDAQ Stock Market. NASD found that the firm caused a locked/crossed market condition prior to the market opening by entering a priced order into an ECN, that, in turn, displayed the order by entering a bid (ask) quotation that locked/crossed another market maker's quotations. The findings stated that the firm did not immediately thereafter send through SelectNet<sup>®</sup> to the market maker(s) whose quote(s) were locked or crossed a Trade-or-Move message(s) that was at the receiving market maker's quoted price, and whose aggregate size was at least an amount equal to the size of the agency order the firm entered into the ECN. (NASD Case #CMS020132)

**David Vernon Jackson (CRD #870389, Registered Representative, Marina del Rey, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$30,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Jackson consented to the described sanctions and to the entry of findings that he authorized and gave publicity to investment research reports recommending the purchase of securities and failed to disclose fully on the reports the nature, terms, and amounts of compensation he received from the reports.

Jackson's suspension began February 19, 2002, and will conclude at the close of business February 18, 2004. (NASD Case #CMS020015)

**Keane Securities Co., Inc. (CRD #8452, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NASDAQ National Market<sup>®</sup> (NNM<sup>®</sup>) and SmallCap<sup>SM</sup> securities, and failed to designate through ACT such last-sale reports as late. In addition, NASD found that the firm failed to report the time of execution through ACT in late, last-sale reports of transactions in NNM securities. The findings also stated that the firm, as a registered market maker in the securities, failed to execute orders upon presentment and thereby failed to honor its published

quotation. NASD also determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning firm quotations. (**NASD Case #CMS020127**)

**Key West Securities, Inc. (CRD #38305, Cardiff by the Sea, California) and Amr "Tony" Elgindy (CRD #1824634, Registered Principal, Colleyville, Texas)** were each fined \$3,000. The firm was suspended from NASD membership for one year and Elgindy was suspended from association with any NASD member in any capacity for one year. The sanctions were based on findings that the firm, acting through Elgindy, made a series of high bids without intending to honor them. Furthermore, the firm, acting through Elgindy, issued recommendations that failed to disclose that the firm was a market maker in the stock.

The firm and Elgindy have appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. (**NASD Case #CMS000015**)

**Lewis Evan Miller (CRD #2310740, Registered Representative, Cedarhurst, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000, suspended from association with any NASD member in any capacity for three months, and required to pay \$4,662.50, plus interest, in restitution to member firms. Without admitting or denying the allegations, Miller consented to the described sanctions and to the entry of findings that he knowingly and intentionally entered priced limit orders in NASDAQ securities into Instinet ("INCA") at prices that he knew would improve, and intended to improve, the National Best Bid or Offer ("NBBO") in such securities, in that the full price and size of such orders would be reflected in the public quotation system as the best price and size at which a market participant was willing to buy or sell such securities. NASD also found that after entering such orders into INCA, Miller knowingly and intentionally entered orders to buy or sell shares of such securities in his trading account at his member firm because he knew, and intended, that they would be routed to market makers whose automated execution systems were programmed to buy or sell, and did buy and sell, such securities on an automated basis at prices equal to the NBBO and in an amount greater than the NBBO. The findings stated that, by knowingly and intentionally engaging in this course of conduct, Miller bought (sold) shares of these securities at prices that were lower (higher) than he would otherwise have

been able to buy (sell) shares of these securities immediately after Miller received the executions of the orders that he had entered in his trading account; intentionally and knowingly canceled certain priced limit orders that he entered into INCA; and obtained a financial benefit of approximately \$4,662.50.

Miller's suspension began September 3, 2002, and will conclude at the close of business December 2, 2002. (**NASD Case #CMS020134**)

**Needham & Company, Inc. (CRD #16360, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$80,000, and required to undertake to retain an independent consultant to review the firm's policies, practices, and procedures relating to the Rule. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in connection with market making activity in a stock, the firm traded ahead of its research report. The findings also stated that the firm failed to establish and maintain a supervisory system and written supervisory procedures reasonably designed to achieve compliance with Interpretation IM-2110-4 that prohibits member firms from purposefully trading ahead of research reports. (**NASD Case #CMS020131**)

**One Financial Network, LLC (CRD #47966, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, it was a party to a locked or crossed market condition prior to the market opening, received a Trade-or-Move message in each instance through SelectNet, and within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. (**NASD Case #CMS020133**)

**Robertson Stephens, Inc. (CRD #41271, San Francisco, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$72,500, required to pay \$37,294.55, plus interest, in restitution to public customers, and required to revise its written supervisory procedures concerning obtaining and maintaining a record of dealers contacted and quotations received in order to comply with best

execution and recordkeeping obligations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker, it failed to execute orders upon presentment and thereby failed to honor its published quotation. In addition, NASD found that the firm, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market participants whose quotations would be locked or crossed, entered bid or asked quotations in The NASDAQ Stock Market, which caused a locked or crossed condition to occur. The findings also stated that the firm failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions and failed to designate through ACT such last-sale reports as late. NASD also determined that the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions, failed to execute an order fully and promptly, and failed to contact and obtain quotations from dealers to determine the best inter-dealer market for the subject security. Furthermore, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning obtaining and maintaining a record of dealers contacted and quotations received in order to comply with best execution and recordkeeping obligations. (NASD Case #CMS020119)

**Spear, Leeds & Kellogg, L.P. (CRD #3466, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$156,000, and required to revise its written supervisory procedures within 30 days to address deficiencies. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. NASD found that the firm, as a non-market maker, executed short-sale transactions on a riskless principal basis, and failed to make an affirmative determination prior to executing such transactions.

The findings stated that the firm, as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered bid or ask quotations in The NASDAQ Stock Market that caused a locked or crossed market condition to occur in each instance, and caused a locked or crossed market condition prior to the market opening by entering a bid (ask) quotation that locked or crossed another market maker's quotations without immediately thereafter sending through SelectNet, to the market maker(s) whose quotes it locked or crossed, a Trade-or-Move message that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. In addition, NASD found that the firm received an order to buy or sell through SelectNet for a normal unit of trading greater than its published quotation size at the time of receipt of such order; executed a transaction in an amount of shares less than the size of the order; and, after such execution, failed to immediately display a revised quotation at a price that was inferior to its previous published quotation. Furthermore, the findings stated that the firm failed to execute the orders upon presentment and thereby failed to honor its published quotation and effected transactions in securities listed on The NASDAQ Stock Market while a trading halt was in effect with respect to such securities. NASD also found that the firm was a party to a locked or crossed market condition prior to the market opening and received a Trade-or-Move message in each instance through SelectNet, and, within 30 seconds of receiving such message, failed to fill the incoming Trade-or-Move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked or uncrossed that market.

In addition, NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the designation of supervisory personnel, ACT compliance, the duty of best execution, limit order protection, order handling rules, one percent rule, registration of traders and supervisors, transaction reporting, Small Order Execution System (SOES), record keeping, locked/crossed markets, anti-competitive practices, information barriers, short sales, firm quote compliance, and the obligation to regularly and rigorously assess the quality of competing markets. (NASD Case #CMS020124)

**Spencer Edwards, Inc. (CRD #22067, Englewood, Colorado)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in OTC Equity securities. The findings also stated that the firm failed to designate through ACT such last-sale reports as late. (**NASD Case #CMS020120**)

**Thomas Weisel Partners, LLC (CRD #46237, San Francisco, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$45,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders upon presentment and thereby failed to honor its published quotation. NASD found that the firm caused a locked or crossed market condition prior to the market opening by entering a bid (ask) quotation that locked or crossed another market maker's quotations without immediately thereafter sending through SelectNet, to the market maker(s) whose quote(s) it locked or crossed, a Trade-or-Move message(s) that was at the receiving market maker's quoted price and whose aggregate size was at least 5000 shares. The findings also stated that the firm was a party to a locked or crossed market condition prior to the market opening, received a Trade-or-Move message in each instance through SelectNet, and, within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked or uncrossed that market. (**NASD Case #CMS020129**)

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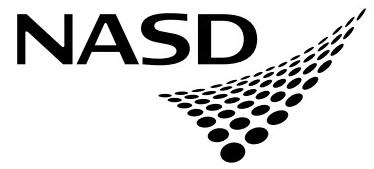
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